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# TEXAS REGISTER

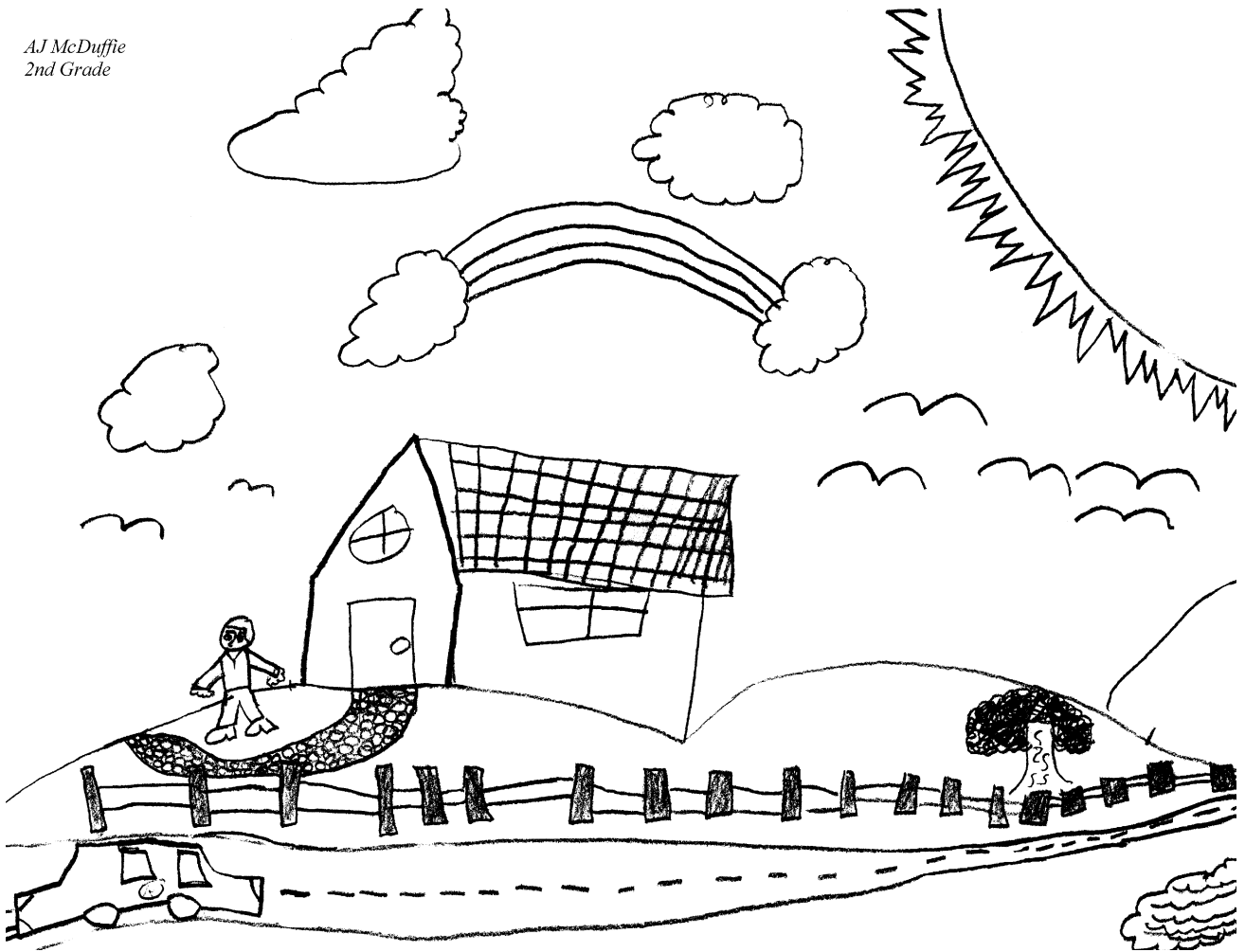
*Volume 32 Number 38*

*September 21, 2007*

*Pages 6451 - 6688*

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*AJ McDuffie  
2nd Grade*



*Part I of II*

School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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***Texas Register***, (ISSN 0362-4781, USPS 120-090), is published weekly (52 times per year) for \$211.00 (\$311.00 for first class mail delivery) by LexisNexis Matthew Bender & Co., Inc., 1275 Broadway, Albany, N.Y. 12204-2694.

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The ***Texas Register*** is published under the Government Code, Title 10, Chapter 2002. Periodicals Postage Paid at Albany, N.Y. and at additional mailing offices.

**POSTMASTER:** Send address changes to the ***Texas Register***, 136 Carlin Rd., Conklin, N.Y. 13748-1531.



a section of the  
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# Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:  
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 463-5561 in Austin. For out-of-town callers our toll-free number is 800-226-7199. Or request a copy by email: [register@sos.state.tx.us](mailto:register@sos.state.tx.us)

For items **not** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:  
<http://www.state.tx.us/>

...

**Meeting Accessibility.** Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

# THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Proclamation 41-3131

TO ALL TO WHOM THESE PRESENTS SHALL COME:

I, RICK PERRY, Governor of Texas, do hereby amend my June 19, 2007, proclamation to include Atascosa, Delta, Guadalupe, Hopkins, Jim Hogg, Liberty, Madison, Milam, Morris, Navarro, Nolan, San Patricio, Real, Refugio, Shackelford, Taylor, Titus, Uvalde, and Zavala Counties certifying severe storms, flooding and tornadoes that occurred from May 23, 2007, and continuing have caused a disaster in these counties.

THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby proclaim the existence of such threat and direct that all necessary measures both public and private as authorized under Section 418.015 of the code be implemented to meet that threat.

As provided in section 418.016, all rules and regulations that may inhibit or prevent prompt response to this threat are suspended, specifically to hereby order the standing suspension until September 1, 2007, of Subtitle D, Title 10 of Government Code, Chapter 2254 of the Texas Government Code, and any applicable agency rules, including those of the Texas Building and Procurement Commission and the Division of Emergency Management in the Office of the Governor solely for the purpose of disaster reservist contracts for the response and recovery efforts of a disaster declared by the Governor.

In accordance with the statutory requirements, copies of this proclamation shall be filed with the applicable authorities.

IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 8th day of August, 2007.

Rick Perry, Governor

Attested by: Phil Wilson, Secretary of State

TRD-200704213

◆ ◆ ◆

Proclamation 41-3132

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the resignation of the Honorable Anna Mowery has caused a vacancy to exist in the Texas House of Representatives District No. 97 which consists of part of Tarrant County; and

WHEREAS, Article III, Section 13 of the Texas Constitution and Section 203.002 of the Texas Election Code require that a special election be ordered upon such vacancy; and

WHEREAS, Section 3.003 of the Texas Election Code, requires the election to be ordered by proclamation of the Governor;

NOW, THEREFORE, I, RICK PERRY, Governor of Texas, under the authority vested in me by the Constitution and Statutes of the State of Texas, do hereby order a special election to be held in District No. 97 on Tuesday, November 6, 2007, for the purpose of electing a State Representative for House District No. 97 to serve out the unexpired term of the Honorable Anna Mowery.

Candidates who wish to have their names placed on the special election ballot must file their applications with the Secretary of State no later than 5:00 p.m. on August 31, 2007.

Early voting by personal appearance shall begin on October 22, 2007, in accordance with Section 85.001 of the Texas Election Code.

A copy of this order shall be mailed immediately to the County Judge of Tarrant County; and all appropriate writs will be issued and all proper proceedings will be followed for the purpose that said election may be held to fill the vacancy in District No. 97 and its result proclaimed in accordance with law.

IN TESTIMONY WHEREOF, I have hereto signed my name and have officially caused the Seal of State to be affixed at my Office in the City of Austin, Texas, this the 16th day of August, 2007.

Rick Perry, Governor

Attested by: Phil Wilson, Secretary of State

TRD-200704214

◆ ◆ ◆

# THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:  
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from  
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

## Opinions

### RQ-0579-GA

The Request has been withdrawn.

### RQ-0614-GA

The Request has been withdrawn.

*For further information, please access the Web site at  
[www.oag.state.tx.us](http://www.oag.state.tx.us) or call the Opinion Committee at (512) 463-2110.*

TRD-200704198

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 11, 2007



## Opinions

### Opinion No. GA-0567

Mr. Glenn Lewis

Chair, Board of Regents

Texas Southern University

3100 Cleburne Avenue

Houston, Texas 77004

Re: Whether a member of the Legislature may provide insurance services to a state university (RQ-0576-GA)

## SUMMARY

The constitutional prohibition in article III, section 18, does not bar contracts with individuals not yet elected to the Texas Legislature. Once elected to the Legislature, a legislator may not provide insurance services to a state university unless authorized under the Texas Constitution and statutes.

Questions involving the propriety of a legislator's particular activities under chapter 572, Government Code, involve fact determinations and

are determined in the first instance by the individual legislator and, thus, are generally inappropriate for the opinion process.

### Opinion No. GA-0568

The Honorable Susan D. Reed

Bexar County Criminal District Attorney

Cadena-Reeves Justice Center

300 Dolorosa, Fifth Floor

San Antonio, Texas 78205-3030

The Honorable John R. Roach

Collin County Criminal District Attorney

Collin County Courthouse

210 South McDonald, Suite 324

McKinney, Texas 75069

Re: Whether the special filing fee in Local Government Code section 133.154 must be collected for cases filed in a statutory probate court (RQ-0577-GA)

## SUMMARY

The special filing fee that Local Government Code section 133.154 requires for all cases filed in district court, statutory county court, and county court does not apply to cases filed in a statutory probate court.

*For further information, please access the Web site at  
[www.oag.state.tx.us](http://www.oag.state.tx.us) or call the Opinion Committee at (512) 463-2110.*

TRD-200704199

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 11, 2007



# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 1. ADMINISTRATION

### PART 2. TEXAS ETHICS COMMISSION

#### CHAPTER 18. GENERAL RULES CONCERNING REPORTS

##### 1 TAC §18.7

The Texas Ethics Commission proposes an amendment to §18.7, regarding the deadline for reports filed electronically with the commission.

The proposed amendment to §18.7 would require that the deadline for any report filed electronically with the commission is midnight on the last day for filing the report under the law requiring the filing of the report. House Bill 2195, 80th Legislature, Regular Session.

David A. Reisman, Executive Director, has determined that for each year of the first five years that the rule is in effect there will be no fiscal implication for the state and no fiscal implication for local government as a result of enforcing or administering the rule as proposed. Mr. Reisman has also determined that the rule will have no local employment impact.

Mr. Reisman has also determined that for each year of the first five years the rule is in effect, the anticipated public benefit will be clarity in what is required by the law.

Mr. Reisman has also determined there will be no direct adverse effect on small businesses or micro-businesses because the rule does not apply to single businesses.

Mr. Reisman has further determined that there are no economic costs to persons required to comply with the rule.

The Texas Ethics Commission invites comments on the proposed rule from any member of the public. A written statement should be mailed or delivered to Natalia Luna Ashley, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed rule may do so at any commission meeting during the agenda item "Communication to the Commission from the Public" and during the public comment period at a commission meeting when the commission considers final adoption of the proposed rule. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or, toll-free, (800) 325-8506.

The proposed amendment to §18.7 is proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §18.7 affects Title 15 of the Election Code, Chapter 305 of the Government Code, and Chapter 302 of the Government Code.

##### *§18.7. Timely Reports and Complete Reports.*

(a) A report is timely if it is complete and is filed by the applicable deadline using the reporting method required by law.

(b) The deadline for any report filed electronically with the commission is midnight on the last day for filing the report under the law requiring the filing of the report.

(c) ~~[(b)]~~ A report is late if it is:

- (1) incomplete;
- (2) not filed by the applicable deadline; or
- (3) not filed by computer diskette, modem, or other means of electronic transfer and the filer is required by law to file using one of these methods.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704167

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800



#### CHAPTER 20. REPORTING POLITICAL CONTRIBUTIONS AND EXPENDITURES

The Texas Ethics Commission proposes the repeal of §§20.25, 20.27, and 20.31, the amendments to §§20.1, 20.19, 20.21, 20.62, 20.65, 20.211, 20.213, 20.215, 20.217, 20.221, 20.223, 20.305, 20.307, 20.317, 20.323, 20.325, 20.327, 20.329, 20.333, 20.335, 20.417, 20.423, 20.425, 20.427, 20.429, 20.431, 20.435, and 20.437, and new §20.20.

The proposed amendment to §20.1(17) provides "special pre-election report" as a shorthand term for "special report near election" which are required to be filed under Title 15 of the Election Code and this chapter. House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election."

The proposed amendments to §20.19 and §20.21 would change the name of the report from "telegram report" to "special pre-election report." House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election" and would also make clean-up changes to these rules.

The proposed repeal of §20.25 and §20.27 would repeal rules relating to filing requirements. Section 20.25 is unnecessary because it provides no guidance or clarification. Section 20.27 is unnecessary because it was superceded by §254.038 and §254.039 of the Election Code.

The proposed repeal of §20.31 would repeal a rule relating to the use of political contributions for contributions to speaker candidates. This rule is unnecessary because it was superceded by §302.0191 of the Government Code.

The proposed amendment to §20.62(a) would increase the reporting threshold from \$500 to \$5,000. The increase would allow for more filers to qualify for the simplified reporting method while still limiting its application. The simplified method for reporting reimbursements is under subsection (a). Currently, a filer may report pursuant to that subsection if (1) the amount of the reimbursements in a reporting period to a staff member do not exceed \$500, and (2) the entire amount is reimbursed in the reporting period. The proposed amendment to §20.62(b) would clarify that a filer may report as a loan the aggregate amount of the expenditures made by a staff member instead of itemizing each expenditure as a loan.

The proposed amendments to §§20.65, 20.211, 20.217, 20.317, 20.323, 20.329, 20.417, 20.423, and 20.429 would change the name of the report from "telegram report" to "special pre-election report." House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election." By rule, the commission has proposed as a shorthand name for this report the term "special pre-election report." See proposed Ethics Commission Rule §20.1(17).

The proposed amendments to §§20.213, 20.215, 20.325, 20.327, 20.425, and 20.427 would change the name of the report from "telegram report" to "special pre-election report." House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election." By rule, the commission has proposed as a shorthand name for this report the term "special pre-election report." See proposed Ethics Commission Rule §20.1(17).

These proposed amendments would also require that reports due 30-days and 8-days before an election, including a report due 8 days before a runoff election, be received by the filing authority by the due date. This reflects the statutory changes made by House Bill 1381, 80th Legislature, Regular Session.

The proposed amendments to §§20.221, 20.223, 20.333, and 20.335 would change the name of the report from "telegram report" to "special pre-election report." House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election." By rule, the commission has proposed as a shorthand name for this report the term "special pre-election report." See proposed Ethics Commission Rule §20.1(17). These amendments also reflect statutory changes made to §254.038 of the Election Code.

The proposed amendments to §20.305 and §20.307 reflect statutory changes made to §252.0031 of the Election Code.

The proposed amendment to §20.431 would require that certain reports filed by a general-purpose committee filing monthly must be received by the filing authority by the due date. This reflects the statutory changes made by House Bill 1381, 80th Legislature, Regular Session.

The proposed amendments to §20.435 and §20.437 would change the name of the report from "telegram report" to "special pre-election report." House Bill 350, 79th Legislature, Regular Session, changed the name of "telegram report" to "special report near election." By rule, the commission has proposed as a shorthand name for this report the term "special pre-election report." See proposed Ethics Commission Rule §20.1(17). These amendments also reflect statutory changes made to §254.039 of the Election Code.

The new §20.20 provides the filing deadline for any report filed electronically with the Ethics Commission. House Bill 2195, 80th Legislature, Regular Session, requires the commission to adopt such a rule. The rule is also necessary to clarify Senate Bill 64, 80th Legislature, Regular Session, which provides a different filing deadline for certain reports filed electronically. The senator who sponsored Senate Bill 64 wrote a letter of intent to the commission stating that she agrees that as to the filing deadline of reports filed electronically with the commission, House Bill 2195 prevails.

David A. Reisman, Executive Director, has determined that for each year of the first five years the rules are in effect there will be no fiscal implication for the state and no fiscal implication for local government as a result of enforcing or administering the rules as proposed. Mr. Reisman has also determined that these rules will have no local employment impact.

Mr. Reisman has also determined that for each year of the first five years the rules are in effect, the anticipated public benefit will be clarification of the rules that govern the reporting of political contributions and expenditures.

Mr. Reisman has also determined there will be no direct adverse effect on small businesses or micro-businesses because these rules do not apply to single businesses.

Mr. Reisman has further determined that there are no economic costs to persons required to comply with these rules or resulting from the repeals.

The Texas Ethics Commission invites comments on the proposed rules from any member of the public. A written statement should be mailed or delivered to Natalia Luna Ashley, General Counsel, Texas Ethics Commission, P.O. Box 12070, Austin, Texas 78711-2070, or by facsimile (FAX) to (512) 463-5777. A person who wants to offer spoken comments to the commission concerning the proposed rules may do so at any commission meeting during the agenda item "Communication to the Commission from the Public" and during the public comment period at a commission meeting when the commission considers final adoption of the proposed rules. Information concerning the date, time, and location of commission meetings is available by telephoning (512) 463-5800 or, toll-free, (800) 325-8506.

## SUBCHAPTER A. GENERAL RULES

### 1 TAC §§20.1, 20.19, 20.20, 20.21

The proposed amendments to §§20.1, 20.19, 20.21, and new §20.20 are proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §20.1 affects §§20.221, 20.333, and 20.435 of the Ethics Commission Rules, and §254.038 and §254.039 of the Election Code. The proposed amendment to §20.19 affects Title 15 of the Election Code, Chapter 305 of the Government Code, Chapter 572 of the Government Code, Chapter 302 of the Government Code, Chapter 303 of the Government Code, §18.1 of the Ethics Commission Rules, and Chapter 20 of the Ethics Commission Rules. The proposed amendment to §20.21 affects Title 15 of the Election Code and Chapter 20 of the Ethics Commission Rules. The proposed new §20.20 affects Title 15 of the Election Code, Chapter 305 of the Government Code, Chapter 302 of the Government Code, and Chapter 20 of the Ethics Commission Rules.

#### *§20.1. Definitions.*

The following words and terms, when used in Title 15 of the Election Code, in this chapter, Chapter 22 of this title (relating to Restrictions on Contributions and Expenditures), and Chapter 24 of this title (relating to Restrictions on Contributions and Expenditures Applicable to Corporations and Labor Organizations), shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (16) (No change.)

(17) Special pre-election report--A shorthand term for a report filed in accordance with the requirements of §§20.221, 20.333, or 20.435 of this title (relating to Special Pre-Election Report by Certain Candidates; Special Pre-Election Report by Certain Specific-Purpose Committees; Special Pre-Election Reports by Certain General-Purpose Committees) and §254.038 and §254.039 of the Election Code (relating to Special Report Near Election by Certain Candidates and Political Committees and Special Report Near Election By Certain General-Purpose Committees).

(18) ~~[(47)]~~ Specific-purpose committee--A political committee that does not meet the definition of general-purpose committee and that has among its principal purposes:

(A) supporting or opposing one or more:

(i) candidates, all of whom are identified and are seeking offices that are known; or

(ii) measures, all of which are identified;

(B) assisting one or more officeholders, all of whom are identified; or

(C) supporting or opposing only one candidate who is unidentified or who is seeking an office that is unknown.

(19) ~~[(48)]~~ Unidentified measure--A question or proposal that is intended to be submitted in an election for an expression of the voters' will and that is not yet legally required to be submitted in an election, except that the term does not include the circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will. The circulation or submission of a petition to determine whether a question or proposal is required to be submitted in an election for an expression of the voters' will is considered to be an identified measure.

#### *§20.19. Reports Must Be Filed on Official Forms.*

Except for special pre-election reports that are exempt from the electronic filing requirement [telegram reports], all reports required by Chapters 20 through 40 ~~[38]~~ must be filed in a format ~~[on forms]~~ prescribed by the commission ~~[pursuant to §18.1 of this title (relating to Adoption and Revision of Forms)]~~ or on forms approved by the executive director pursuant to §18.1 ~~[§18.11]~~ of this title (relating to ~~[Substitution or Replication of] Forms~~).

#### *§20.20. Timeliness of Action by Electronic Filing.*

The filing deadline for any report filed electronically with the commission is midnight on the last day for filing the report under the law requiring the filing of the report.

#### *§20.21. Due Dates on Holidays and Weekends.*

(a) (No change.)

(b) Subsection (a) of this section does not apply to a special pre-election report required by this title or by Title 15 of the Election Code. Special pre-election reports are [§20.221 of this title (relating to Telegram Report by Certain Candidates); §20.333 ; of this title (relating to Telegram Report by Certain Specific-Purpose Committees); or §20.435 of this title (relating to Telegram Report by Certain General-Purpose Committees). Reports under those sections are] due on the date assigned by the [those] sections requiring those reports to be filed.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704169

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800



#### **1 TAC §§20.25, 20.27, 20.31**

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Ethics Commission or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The proposed repeal of §§20.25, 20.27, and 20.31 is proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed repeal of §20.25 affects §254.036 of the Election Code. The proposed repeal of §20.27 affects §254.038 and §254.039 of the Election Code. The proposed repeal of §20.31 affects §302.0191 of the Government Code.

#### *§20.25. Affidavit.*

#### *§20.27. Electronic Filing of Telegram Reports.*

#### *§20.31. Use of Political Contributions for Contributions to Speaker Candidate.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704168

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800

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## SUBCHAPTER B. GENERAL REPORTING RULES

### 1 TAC §20.62, §20.65

The proposed amendments to §20.62 and §20.65 are proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendment to §20.62 affects §254.031 of the Election Code. The proposed amendment to §20.65 affects Chapter 254 of the Election Code.

#### §20.62. *Reporting Staff Reimbursement.*

(a) Political expenditures made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee that in the aggregate do not exceed \$5,000 [~~\$500~~] during the reporting period may be reported as follows IF the reimbursement occurs during the same reporting period that the initial expenditure was made:

(1) - (2) (No change.)

(b) Except as provided by subsection (a) of this section, a political expenditure made out of personal funds by a staff member of an officeholder, a candidate, or a political committee with the intent to seek reimbursement from the officeholder, candidate, or political committee must be reported as follows:

(1) the aggregate amount of the expenditures made by the staff member as of the last day of the reporting period is reported as a loan to the officeholder, candidate, or political committee;

(2) - (3) (No change.)

#### §20.65. *Reporting No Activity.*

(a) (No change.)

(b) This general rule does not apply to:

(1) special pre-election [telegram] reports;

(2) - (3) (No change.)

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704170

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800

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## SUBCHAPTER C. REPORTING REQUIREMENTS FOR A CANDIDATE

### 1 TAC §§20.211, 20.213, 20.215, 20.217, 20.221, 20.223

The proposed amendments to §§20.211, 20.213, 20.215, 20.217, 20.221, and 20.223 are proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendments to §§20.211, 20.213, 20.215, 20.217, 20.221, and 20.223 affect Chapter 254 of the Election Code.

#### §20.211. *Semiannual Reports.*

(a) (No change.)

(b) One semiannual report is due no earlier than July 1 and no later than July 15.

(1) The period covered by a report under this subsection begins on the later of the following dates, as applicable:

(A) (No change.)

(B) the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File); or

(C) the day the candidate's campaign treasurer appointment was filed, if this is the candidate's first report filed under this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter.

(2) (No change.)

(c) One semiannual report is due no earlier than January 1 and no later than January 15.

(1) The period covered by a report under this subsection begins on the later of the following dates, as applicable:

(A) (No change.)

(B) the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter; or

(C) the day the candidate's campaign treasurer appointment was filed, if this is the candidate's first report filed under this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter.

(2) (No change.)

#### §20.213. *Pre-Election Reports.*

(a) - (b) (No change.)

(c) The first pre-election report must be received by the authority with whom the report is required to be filed [is due] not later than 30 days before election day. If this is the candidate's first report filed, the report covers a period that begins on the day the candidate's campaign treasurer appointment was filed. Otherwise the period begins on the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File). The period covered by the report continues through the 40th day before the election.

(d) The second pre-election report must be received by the authority with whom the report is required to be filed [is due] not later than eight days before election day. The report covers the period that



begins on the 39th day before the election and ends on the 10th day before the election.

(e) If a person becomes an opposed candidate during the period that begins on the 39th day before the election and ends on the 10th day before the election, the person shall file one pre-election report. The report shall cover a period that begins on the day the candidate's campaign treasurer appointment was filed, if this is the candidate's first report filed, or on the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter. The period covered by the report ends on the 10th day before the election.

(f) If a person becomes an opposed candidate after the 10th day before the election, the person is not required to file pre-election reports. The person is required to file any special pre-election [telegram] reports required by §20.221 of this title (relating to Special Pre-Election [Telegram] Report by Certain Candidates).

*§20.215. Runoff Report.*

(a) - (b) (No change.)

(c) A runoff report must be received by the authority with whom the report is required to be filed [is due] no later than the eighth day before the runoff election.

(d) (No change.)

*§20.217. Modified Reporting.*

(a) - (f) (No change.)

(g) If an opposed candidate exceeds either of the \$500 limits after the 30th day before the election, the candidate must file a report not later than 48 hours after exceeding the limit. If this is the candidate's first report filed, the report covers a period that begins on the day the candidate's campaign treasurer appointment was filed. Otherwise the period begins on the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report) or Subchapter D of this chapter (relating to Reporting Requirements for an Officeholder Who Does Not Have a Campaign Treasurer Appointment on File). The period covered by the report continues through the day the candidate exceeded one of the limits for modified reporting.

*§20.221. Special Pre-Election [Telegram] Report by Certain Candidates.*

(a) As provided by subsection (b) of this section, certain candidates must file reports about certain contributions accepted during the period that begins on the ninth day before an election and ends at noon on the [second] day before an election. Reports under this section are known as "special pre-election" ["telegram"] reports. [although they may be filed by hand or by telephonic facsimile machine as well as by telegram].

{(b) The following candidates must file telegram reports:}

(b) [(4)] An [an] opposed candidate for an [statewide] office specified by §252.005(1), Election Code, [or state senator] who, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed \$1,000 must file special pre-election reports. [; and]

{(2) an opposed candidate for state representative who, during the period described in subsection (a) of this section, accepts political contributions from a person that in the aggregate exceed \$200.}

(c) Except as provided in subsection (e) of this section, a [A] candidate must file a special pre-election [telegram] report so that the report is received by the commission no later than the first business

day [48 hours] after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election [telegram] report.

{(d) The report filed under subsection (e) of this section may be delivered by hand, by telegram, or by telephonic facsimile machine. Section 20.23 of this title (relating to Timeliness of Action by Mail) does not apply to this section.}

(d) [(e)] If, during the reporting period for special pre-election [telegram] contributions, a candidate receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election [telegram] report during that period, the candidate must file an additional special pre-election [telegram] report for each such contribution. Except as provided in subsection (e) of this section, each [Each] such special pre-election [telegram] report must be filed so that it is received by the commission [is due] no later than the first business day [48 hours] after the candidate accepts the contribution.

(e) A candidate must file a special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, so that the report is received by the commission no later than 5 p.m. of the first business day after the candidate accepts a contribution from a person that triggers the requirement to file the special pre-election report.

(f) A candidate must file a special pre-election report [telegram reports] for each person whose contribution or contributions made during the period for special pre-election [telegram] reports exceed the threshold for special pre-election [telegram] reports.

(g) A candidate must also report contributions reported on a special pre-election [telegram] report on the next semiannual, pre-election, or runoff report filed, as applicable.

*§20.223. Form and Contents of Special Pre-Election [Telegram] Report.*

(a) A special pre-election [telegram] report shall be filed electronically as required by §254.036, Election Code, unless the report is exempt from electronic filing. A special pre-election [by telegram or telephonic facsimile machine or by hand. The] report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the commission.

(b) A special pre-election [telegram] report shall include the following information:

(1) - (2) (No change.)

(3) the name of the person making a contribution or contributions that triggered the requirement to file a special pre-election [telegram] report;

(4) - (7) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704171

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800

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## SUBCHAPTER E. REPORTS BY A SPECIFIC-PURPOSE COMMITTEE

### 1 TAC §§20.305, 20.307, 20.317, 20.323, 20.325, 20.327, 20.329, 20.333, 20.335

The proposed amendments to §§20.305, 20.307, 20.317, 20.323, 20.325, 20.327, 20.329, 20.333, and 20.335 are proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendments to §§20.305, 20.307, and 20.317 affects Chapter 252 of the Election Code. The proposed amendments to §§20.323, 20.325, 20.327, 20.329, 20.333, and 20.335 affect Chapter 254 of the Election Code.

#### §20.305. *Appointing an Assistant Campaign Treasurer.*

(a) A specific-purpose committee for supporting or opposing a candidate for an office specified by §252.005(1), Election Code [~~a statewide office, the state legislature, the State Board of Education, or a multi-county district office~~] or a statewide or district measure may appoint an assistant campaign treasurer by written appointment filed with the commission.

(b) - (f) (No change.)

#### §20.307. *Name of Specific-Purpose Committee.*

The name of a specific-purpose committee that supports a candidate for or an officeholder of an office specified by §252.005(1), Election Code [~~a statewide office, the state legislature, the State Board of Education, or a multi-county district office~~] must include the full name of that candidate or officeholder.

#### §20.317. *Termination Report.*

(a) - (b) (No change.)

(c) A termination report covers a period that begins on the day after the period covered by the last report of contributions and expenditures required to be filed under this subchapter (other than a special pre-election [telegram] report or a special session report) or the day the campaign treasurer appointment was filed (if the committee has not yet filed a report of contributions and expenditures). The period covered by the report ends on the day the termination of the campaign treasurer appointment is effective.

(d) - (e) (No change.)

#### §20.323. *Semiannual Reports.*

(a) (No change.)

(b) One semiannual report is due no earlier than July 1 and no later than July 15.

(1) The period covered by a report under this subsection begins on the later of the following dates, as applicable:

(A) (No change.)

(B) the day the committee's campaign treasurer appointment was filed, if this is the committee's first report filed under this subchapter (other than a special pre-election [telegram] report or a special session report); or

(C) the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report).

(2) (No change.)

(c) One semiannual report is due no earlier than January 1 and no later than January 15.

(1) The period covered by a report under this subsection begins on the later of the following dates, as applicable:

(A) (No change.)

(B) the day the committee's campaign treasurer appointment was filed, if this is the committee's first report filed under this subchapter (other than a special pre-election [telegram] report or a special session report); or

(C) the first day after the period covered by the last report required by this subchapter (other than a special pre-election [telegram] report or a special session report).

(2) (No change.)

#### §20.325. *Pre-Election Reports.*

(a) - (c) (No change.)

(d) A specific-purpose committee that supports or opposes a candidate or measure in an election during the reporting period set out in the next sentence of this subsection must file a report under this subsection. The report required by this subsection covers a period that begins on either the day the committee's campaign treasurer appointment was filed or the first day after the period covered by the last report (other than a special pre-election [telegram] report or special session report) filed under this subchapter, as applicable, and ends on the 40th day before the election. The report due under this subsection must be received by the authority with whom the report is required to [shall] be filed no later than the 30th day before the election.

(e) A specific-purpose committee that was required to file a pre-election report under subsection (d) of this section must file a report under this subsection by the eighth day before the election. The report shall cover a period that begins on the 39th day before the election and ends on the 10th day before the election. The report must be received by the authority with whom the report is required to be filed [is due] no later than the eighth day before the election.

(f) A committee that was not required to file a report under subsection (d) of this section is required to file a report by the eighth day before the election if the committee supports or opposes a candidate or measure during the period that begins on the 39th day before the election and ends on the 10th day before the election. A report required under this subsection shall cover a period that begins on either the day the committee's campaign treasurer appointment was filed or the first day after the period covered by the last report (other than a special pre-election [telegram] report or special session report) filed under this subchapter, as applicable, and ends on the 10th day before the election.

#### §20.327. *Runoff Report.*

(a) - (b) (No change.)

(c) A runoff report must be received by the authority with whom the report is required to be filed [is due] no later than the eighth day before the runoff election.

(d) - (e) (No change.)

#### §20.329. *Modified Reporting.*

(a) - (f) (No change.)

(g) If a specific-purpose committee exceeds either of the \$500 limits for modified reporting after the 30th day before the election, the committee's campaign treasurer must file a report not later than 48 hours after exceeding the limit.

(1) The period covered by a 48-hour report shall begin either on the day the committee's campaign treasurer appointment was filed (if it is the committee's first report of contributions and expenditures) or on the first day after the period covered by the last report

(other than a special pre-election [telegram] report or special session report) filed under this subchapter, as applicable.

(2) The period covered by a 48-hour report shall continue through the day the committee exceeded one of the limits for modified reporting.

(h) A specific-purpose committee that exceeds either of the \$500 limits for modified reporting after the 30th day before the election and on or before the 10th day before the election must file a report under §20.325(f) of this title (relating to Pre-Election Reports), in addition to any required special pre-election [telegram] reports.

*§20.333. Special Pre-Election [Telegram] Report by Certain Specific-Purpose Committees.*

(a) As provided by subsection (b) of this section, certain specific-purpose committees must file reports about certain contributions accepted during the period that begins on the ninth day before an election and ends at noon on the ~~[second]~~ day before an election. Reports under this section are known as "special pre-election" ~~["telegram"]~~ reports ~~[, although they may be filed by hand or by telephonic facsimile machine as well as by telegram].~~

~~{(b) Campaign treasurers for the following specific-purpose committees must file telegram reports:}~~

~~(b) [(4)] A campaign treasurer for a specific-purpose committee for supporting or opposing a candidate for an [statewide] office specified by §252.005(1), Election Code, [or state senator] that, during the period described in subsection (a) of this section, accepts one or more political contributions from a person that in the aggregate exceed \$1,000 must file special pre-election reports. [; and]~~

~~{(2) a specific-purpose committee for supporting or opposing a candidate for state representative that, during the period described in subsection (a) of this section, accepts political contributions from a person that in the aggregate exceed \$200.}~~

~~(c) Except as provided in subsection (e) of this section, the [The] campaign treasurer of a specific-purpose committee must file a report so that the report is received by the commission no later than the first business day [48 hours] after the committee accepts a contribution from a person that triggers the requirement to file the special pre-election [telegram] report.~~

~~{(d) The report filed under subsection (e) of this section may be delivered by hand, by telegram, or by telephonic facsimile machine. Section 20.23 of this title (relating to Timeliness of Action by Mail) does not apply to a report filed under this section.}~~

~~(d) [(e)] If, during the reporting period for special pre-election [telegram] contributions, a committee receives additional contributions from a person whose previous contribution or contributions have triggered the requirement to file a special pre-election [telegram] report during the period, the campaign treasurer for the committee must file an additional special pre-election [telegram] report for each such contribution. Except as provided in subsection (e) of this section, each [Each] such special pre-election [telegram] report must be filed so that it is received by the commission [is due] no later than the first business day [48 hours] after the committee accepts the contribution.~~

~~(e) [(f)] The campaign treasurer of a specific-purpose committee must file a special pre-election [telegram] report for each person whose contribution or contributions made during the period for special pre-election [telegram] reports exceed the threshold for special pre-election [telegram] reports.~~

~~(f) [(g)] A campaign treasurer of a specific-purpose committee must also report contributions reported on a special pre-election~~

~~[telegram] report on the next semiannual, pre-election, or runoff report filed, as applicable.~~

*§20.335. Form and Contents of Special Pre-Election [Telegram] Report by a Specific-Purpose Committee Supporting or Opposing Certain Candidates [a Candidate for State Senator or State Representative].*

~~(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless a report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the commission.~~

~~(b) A special pre-election [telegram] report shall include the following information:~~

- ~~(1) the full name of the specific-purpose committee;~~
- ~~(2) the full name of the campaign treasurer;~~
- ~~(3) the name of the person making a contribution or contributions that triggered the requirement to file a special pre-election [telegram] report;~~
- ~~(4) the address of the person making the contribution or contributions;~~
- ~~(5) the amount of each contribution;~~
- ~~(6) the date each contribution was accepted; and~~
- ~~(7) a description of any in-kind contribution.~~

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704172

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800

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## SUBCHAPTER F. REPORTING REQUIREMENT FOR A GENERAL-PURPOSE COMMITTEE

### 1 TAC §§20.417, 20.423, 20.425, 20.427, 20.429, 20.431, 20.435, 20.437

The proposed amendments to §§20.417, 20.423, 20.425, 20.427, 20.429, 20.431, 20.435, and 20.437 are proposed under Government Code, Chapter 571, §571.062, which authorizes the commission to adopt rules concerning the laws administered and enforced by the commission.

The proposed amendments to §§20.417, 20.423, 20.425, 20.427, 20.429, 20.431, 20.435, and 20.437 affect Chapter 254 of the Election Code.

#### §20.417. *Termination Report.*

(a) - (b) (No change.)

(c) A termination report covers a period that begins on either the day after the period covered by the last report of contributions and

expenditures required to be filed under this subchapter (other than a special pre-election [telegram] report) or the day the campaign treasurer appointment was filed (if the committee has not yet filed a report of contributions and expenditures). The period covered by the report continues through the day the termination of the campaign treasurer appointment is effective.

(d) - (e) (No change.)

**§20.423. Semiannual Reports.**

(a) (No change.)

(b) One semiannual report is due no earlier than July 1 and no later than July 15.

(1) The report due by July 15 shall cover a period that begins on either January 1, the day the committee's campaign treasurer appointment was filed, or the first day after the period covered by the last report required to be filed under this subchapter (other than a special pre-election [telegram] report), as applicable.

(2) (No change.)

(c) One semiannual report is due no earlier than January 1 and no later than January 15.

(1) The report due on January 15 shall cover a period that begins on either July 1, the day the committee's campaign treasurer appointment was filed, or the first day after the period covered by the last report required to be filed under this subchapter (other than a special pre-election [telegram] report), as applicable.

(2) (No change.)

(d) (No change.)

**§20.425. Pre-Election Reports.**

(a) - (b) (No change.)

(c) The first pre-election report must be received by the authority with whom the report is required to be filed [is due] no later than the 30th day before the election.

(1) (No change.)

(2) The report covers a period that begins on either the day the committee's campaign treasurer appointment was filed or the first day after the period covered by the last report (other than a special pre-election [telegram] report) filed under this subchapter, as applicable, and ends on the 40th day before the election.

(d) The second pre-election report must be received by the authority with whom the report is required to be filed [is due] no later than the eighth day before the election. The period covered by this report depends on whether the committee was required to file a report under subsection (c) of this section.

(1) (No change.)

(2) A committee that was not required to file a report by the 30th day before the election is required to file a report by the eighth day before the election if the committee accepts a political contribution or makes a political expenditure to support or oppose a candidate or measure during the period that begins on the 39th day before the election and ends on the 10th day before the election.

(A) A report that is required to be filed under paragraph (2) of this subsection shall cover a period that begins on either the day the committee's campaign treasurer appointment was filed or the first day after the period covered by the last report (other than a special pre-election [telegram] report) filed under this subchapter, as applicable.

(B) (No change.)

**§20.427. Runoff Report.**

(a) (No change.)

(b) A runoff report must be received by the authority with whom the report is required to be filed [is due] no later than the eighth day before the runoff election.

(c) (No change.)

**§20.429. Option To File Monthly.**

(a) (No change.)

(b) A general-purpose committee that files on the monthly filing schedule must file special pre-election [telegram] reports required by §20.435 of this title (relating to Special Pre-Election [Telegram] Reports by Certain General-Purpose Committees).

(c) - (d) (No change.)

**§20.431. Monthly Reporting.**

(a) (No change.)

(b) A monthly report is due not later than the fifth day of the month following the end of the period covered by the report. A monthly report covering the month preceding an election in which the committee is involved must be received by the authority with whom the report is required to be filed no later than the fifth day of the month following the end of the period covered by the report.

(c) - (d) (No change.)

**§20.435. Special Pre-Election [Telegram] Reports by Certain General-Purpose Committees.**

(a) In addition to other reports required by this chapter, a general-purpose committee must file a special pre-election [telegram] report if it:

(1) makes direct campaign expenditures supporting or opposing a single candidate that in the aggregate exceed \$1,000 or a group of candidates that in the aggregate exceed \$15,000 during the reporting period for special pre-election [telegram] reports; or [-]

(2) accepts political contributions from a person that in the aggregate exceed \$5,000 during the reporting period for special pre-election reports.

(b) The period for special pre-election [telegram] reports begins on the ninth day before election day and ends at noon on the [second] day before election day.

[(c)] A report under this section may be filed by telegram or telephonic facsimile machine or by hand.[-]

(c) [(d)] Except as provided by subsection (d) of this section, a [A] report under this section must be received by [filed with] the commission no later than the first business day [48 hours] after the contribution is accepted or the expenditure is made.

(d) A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, must be received by the commission no later than 5 p.m. of the first business day after the contribution is accepted or the expenditure is made.

[(e)] Section 20.23 of this title (relating to Timeliness of Action by Mail) does not apply to this section.[-]

[(f)] The report does not have to be on a form issued by the commission.[-]

[(g)] Reports required by this section need not include an affidavit.[-]

(e) ~~[(h)]~~ Expenditures and contributions ~~[Contributions]~~ reported under this section must be reported again in the next applicable sworn report of contributions and expenditures.

§20.437. *Form and Contents of Special Pre-Election ~~[Telegram]~~ Report.*

(a) A special pre-election report shall be filed electronically as required by §254.036, Election Code, unless a report is exempt from electronic filing. A special pre-election report that is exempt from electronic filing under §254.036(c), Election Code, is not required to be on a form prescribed by the commission.

(b) A report required by §20.435 of this title (relating to Special Pre-Election ~~[Telegram]~~ Reports by Certain General-Purpose Committees) shall include the following information:

- (1) the full name of the general-purpose committee;
- (2) the full name of the campaign treasurer;
- (3) the amount of each direct campaign expenditure;
- (4) the full name and address of the person or persons to whom each direct campaign expenditure is made;
- (5) ~~[(4)]~~ the date of each direct campaign expenditure;
- (6) ~~[(5)]~~ a description of the goods or services for which each direct campaign expenditure was made; ~~[and]~~
- (7) ~~[(6)]~~ the identification of the candidates or group of candidates benefiting from the direct campaign expenditure; ~~[-]~~
- (8) the name of the person making a contribution or contributions that triggered the requirement to file a special pre-election report;
- (9) the address of the person making the contribution or contributions;
- (10) the amount of each contribution;
- (11) the date each contribution was accepted; and
- (12) a description of any in-kind contribution.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704173

Natalia Luna Ashley

General Counsel

Texas Ethics Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-5800



## PART 15. TEXAS HEALTH AND HUMAN SERVICES COMMISSION

### CHAPTER 351. COORDINATED PLANNING AND DELIVERY OF HEALTH AND HUMAN SERVICES

#### 1 TAC §351.703

The Texas Health and Human Services Commission (HHSC) proposes new §351.703, relating to the establishment of a grant program for regional and local health care programs. This rule defines regional and local health care programs and provides for the competitive award of grants to support the initial establishment and operation of regional or local health care programs. The rule, if adopted, will expire on September 1, 2009.

#### Background and Justification

Section 13 of Senate Bill (SB) 10 (80th Legislature, Regular Session, 2007), codified as Title 2, Subtitle C, Health and Safety Code, Chapter 75, Subchapter E, allows HHSC to develop a grant program to support the initial establishment and operation of regional or local health care programs. As outlined in SB 10, regional and local health care programs will improve the health of employees of small employers and their families by improving the employees' access to health care and by reducing the number of those employees who are uninsured. While not required by SB 10, rules are necessary to establish guidelines related to the application, selection, and evaluation processes for the grant program and to ensure that the grantmaking process is transparent for HHSC's stakeholders and prospective grantees.

#### Section-by-Section Summary

Proposed §351.703 provides for a competitive grant program to support the initial establishment and operation of one or more regional or local health care programs for employees of small employers. Both the initial grant awarded by HHSC and any continuation or enhancement of the grant beyond the 2008-2009 state fiscal biennium are subject to the availability of appropriated funds. Grants awarded will also be subject to conditions specified in the request for proposals and the contract executed with HHSC.

The proposed rule describes grantee eligibility criteria and projects that are eligible for grant funding. The proposed rule also establishes that the application process will be published in the request for proposals and that HHSC will select a review panel to consider grant applications according to HHSC's evaluation methodology. The rule lists selection criteria to be considered by HHSC.

The proposed rule states that HHSC will establish and monitor performance objectives for grantees. In addition, the proposed rule would require the grantee to enter into a contract with HHSC prior to the distribution of grant funds. The rule also requires grantees to participate in HHSC's review of grant projects as required by SB 10.

#### Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during the first five-year period the proposed rule is in effect there will be no fiscal impact to state government as no direct appropriations were made by the 80th Legislature for this purpose. If funding is identified, HHSC will implement the grant program. The proposed rule will not result in any fiscal implications for local health and human services agencies unless funding is identified for grants and the local area applies to participate in the program. Local governments may be eligible for grant funding but will not incur additional costs unless they choose to participate in the grant program.

#### Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the proposed rule as they will not be required to alter their business practices as a result of the rule. There are no anticipated economic costs to persons who are required to comply with the proposed rule. There is no anticipated negative impact on local employment. Should grants be made available and programs established, small business may benefit from more affordable employee insurance and the number of employees who are uninsured in the community should be reduced.

#### Public Benefit

Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the proposed section is in effect, the public will benefit from the adoption of the rule. The anticipated public benefit, as a result of enforcing the rule, will be the creation or support of programs that: (1) improve the health of employees of small employers and their families by improving the employees' access to health care and by reducing the number of those employees who are uninsured; (2) reduce the likelihood that those employees and their families will require services from publicly-funded programs such as Medicaid and CHIP; (3) contribute to economic development by helping small businesses remain competitive with a healthy workforce and health care benefits that will attract employees; and (4) encourage innovative solutions for providing and funding health care services and benefits.

#### Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. A "major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environment exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environment exposure.

#### Takings Impact Assessment

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

#### Public Comment

Written comments on the proposal may be submitted to Stacey Pogue, Senior Policy Analyst at P.O. Box 85200, MC H600, Austin, Texas 78751, by fax to (512) 491-1978 or by e-mail to [stacey.pogue@hhsc.state.tx.us](mailto:stacey.pogue@hhsc.state.tx.us) within 30 days of publication of this proposal in the *Texas Register*.

#### Public Hearing

A public hearing is scheduled for October 3, 2007 at 10:00 a.m. in the HHSC Lone Star Conference Room, at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

#### Statutory Authority

The new rule is proposed under the authority granted to HHSC by Government Code, §531.033, which authorizes the Executive

Commissioner of HHSC to adopt rules necessary to implement HHSC's duties.

The proposed new rule affects Texas Government Code, Chapter 531. No other statutes, articles, or codes are affected by this proposed new rule.

#### §351.703. Grant Program for Regional and Local Health Care Programs.

(a) Purpose. This section implements Title 2, Subtitle C, Health and Safety Code, Chapter 75, Subchapter E, which authorizes the Health and Human Services Commission to implement a competitive grant program to support the initial establishment and operation of one or more regional or local health care programs for employees of small employers.

(b) Grant objectives. The grant or grants awarded under this section are intended to assist with the establishment or operation of regional and local health care programs created to:

(1) Improve the health of employees of small employers and their families by improving the employees' access to health care and by reducing the number of those employees who are uninsured;

(2) Reduce the likelihood that those employees and their families will require services from publicly-funded programs such as Medicaid and CHIP;

(3) Contribute to economic development by helping small businesses remain competitive with a healthy workforce and health care benefits that will attract employees; and

(4) Encourage innovative solutions for providing and funding health care services and benefits.

(c) Definitions. The following definitions are used throughout this section.

(1) Commission--The Health and Human Services Commission.

(2) Employee--An individual employed by an employer. The term includes a partner of a partnership and the proprietor of a sole proprietorship.

(3) Grantee--A recipient of a grant awarded under this section.

(4) Local health care program--A program operating in one county and established to provide health care services or benefits to employees of participating small employers under Health and Safety Code, Chapter 75, Subchapter B, Regional or Local Health Care Program.

(5) Regional health care program--A program operating in two or more counties and established to provide health care services or benefits to employees of participating small employers under Health and Safety Code, Chapter 75, Subchapter B, Regional or Local Health Care Program.

(6) Small Employer--A person who employed an average of at least two employees, but not more than 50 employees, on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year.

(d) General conditions of the grant. The grants awarded under this section, and any extension, continuation, or addition to such grants, are subject to:

(1) The availability of appropriated state funds. A grant may be cancelled either before or after the Commission awards a grant

if funding for the grant is terminated, withdrawn, or if sufficient funds are not appropriated to the Commission;

(2) A competitive award process established by the Commission;

(3) The requirements of the contract executed by the Commission with the grantee as required under subsection (j) of this section; and

(4) The grant award period specified in the requests for proposals or other notice of potential grant awards issued by the Commission.

(e) Eligible applicants. The following entities are eligible to apply for grant funds:

(1) The Commissioners court or courts of the county or counties participating in a local or regional health care program;

(2) The healthcare system or hospital district of the county, or counties, participating in a regional or local health care program;

(3) A nonprofit organization or such other entity as is described in the requests for proposals or other notice of potential grant award issued by the Commission that:

(A) Plans or operates the program under a contract with the commissioners court or courts, as applicable; or

(B) Is an entity in which the county or counties, or a program affiliated with the county or counties, participate or that is established or designated by the commissioners court or courts, as applicable, to plan or operate the program.

(f) Eligible expenditures. Grant applications must meet the requirements and specifications set forth in requests for proposals issued by the Commission. Projects eligible for grant funding may include:

(1) Identifying the target population of small employers for participating in the program;

(2) Designing the service or benefit structure and delivery mechanisms;

(3) Designing and implementing wellness and educational programs to improve the general health of the targeted population;

(4) Conducting actuarial analysis;

(5) Conducting related surveys or focus groups;

(6) Developing and maintaining a provider network;

(7) Provider contracting;

(8) Marketing to small employers and employees;

(9) Administrative costs for the initial operation of regional or local health care programs; and

(10) Other functions determined by the Commission to support the initial establishment or operation of a regional or local health care program that accomplishes the objectives in subsection (b) of this section.

(g) Application and selection process. An applicant must submit its application for a grant directly to the Commission in the time and manner specified by the Commission. An application received after the deadline will not be considered. A panel selected by the Commission will review and evaluate eligible, complete, and timely applications in accordance with the evaluation methodology published in the request for proposal or other notice of potential grant award issued by the Commission.

(h) Selection criteria. In selecting grant recipients, the Commission shall consider:

(1) The extent to which the regional or local health care program proposed by the applicant accomplishes the purposes established by Chapter 75 of the Health and Safety Code;

(2) The extent to which the regional or local health care program meets the objectives established by §75.101 of the Health and Safety Code; and

(3) Other criteria established by the Commission as described in the specific request for proposal or other notice of potential grant awards issued by the Commission.

(i) Performance objectives. Grantees will be required to meet performance objectives established by the Commission.

(j) Contract execution. Grantees will be required to execute a contract with the Commission on mutually agreeable terms and conditions in the manner and format prescribed by the Commission. Grant funds may not be distributed to a grantee before the execution of a contract with the Commission. The contract will require that the grantee comply with:

(1) The performance objectives established by the Commission and monitored through progress reports;

(2) Any financial and reporting requirements established by the Commission;

(3) All applicable policies and procedures; and

(4) All applicable federal and state laws and their implementing regulations.

(k) Project review and evaluation report. The Commission will review all grant projects before September 1, 2008. Grantees must participate in this review in the manner prescribed by the Commission, which may include on-site visits and the submission of data, documents, and reports. The Commission will submit a report by December 1, 2008, to the Governor, Lieutenant Governor, and speaker of the House of Representatives that includes:

(1) An evaluation of the success of regional and local health care programs in accomplishing the purposes of Health and Safety Code, Chapter 75, Subchapter E; and

(2) The Commission's recommendations for any legislation needed to facilitate or improve regional and local health care programs.

(l) Expiration. This rule expires September 1, 2009.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 5, 2007.

TRD-200704094

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 424-6900



## CHAPTER 353. MEDICAID MANAGED CARE

## SUBCHAPTER E. STANDARDS FOR MEDICAID MANAGED CARE

### 1 TAC §353.407

The Texas Health and Human Services Commission (HHSC) proposes to amend §353.407, relating to requirements of Managed Care Organizations (MCO). HHSC also proposes to change the title of the rule from "Requirements of Managed Care Organizations" to "Requirements of Managed Care Plans."

#### Background and Justification

House Bill 1579, 80th Legislature, Regular Session, 2007, requires that a Federally Qualified Health Center (FQHC), Rural Health Clinic (RHC), and municipal health department's public clinic be reimbursed for healthcare services provided outside of regular business hours (after hours care) (i.e., before 8:00 a.m. and after 5:00 p.m., Monday through Friday, and on weekends and federal holidays) to all Medicaid managed care members, including Primary Care Case Management (PCCM) members. A referral from the PCCM or MCO member's primary care physician is not required for reimbursement.

The current rule already requires Medicaid MCOs to reimburse FQHCs and RHCs for after hours care to MCO members regardless of whether there is a primary care physician referral. The proposed amendment extends the reimbursement requirement to PCCM members who receive services outside of regular business hours. The proposal also adds municipal health department public clinics to the types of providers who are to be reimbursed for services provided outside of regular business hours regardless of whether there is a referral.

#### Section-by-Section Summary

As amended, §353.407(b) requires reimbursement to FQHCs, RHCs, and public health clinics for healthcare services provided to PCCM and MCO clients outside of regular business hours, i.e., before 8:00 a.m. and after 5:00 p.m., Monday through Friday, and during weekends and federal holidays. A referral from the PCCM or MCO member's primary care physician is not required for reimbursement.

HHSC also proposes to change the title of the rule from "Requirements of Managed Care Organizations" to "Requirements of Managed Care Plans" since the proposed amendment adds requirements for PCCM to the rule, and the definition of "Managed Care Plan" includes both MCOs and PCCM.

#### Fiscal Note

Thomas M. Suehs, Deputy Executive Commissioner for Financial Services, has determined that during each year of the first five years that the amended rule is in effect, there will be no fiscal impact to state government. The rule amendment likely will lead to increased claims for services from FQHCs, RHCs and public clinics, and result in savings for emergency hospital services. The proposed rule may lead to increased revenue (provider payments) for local governments and health and human services agencies that operate FQHCs, rural health clinics, and public clinics. There are no additional costs anticipated for local governments as a result of enforcing or administering the changes.

#### Small and Micro-business Impact Analysis

Mr. Suehs has also determined that there will be no effect on small businesses or micro businesses to comply with the amendment as they will not be required to alter their business practices

as a result of the rule. There are no anticipated economic costs to persons who are required to comply with the proposed amendments. There is no anticipated negative impact on local employment.

#### Public Benefit

Chris Traylor, Associate Commissioner for Medicaid and CHIP, has determined that for each year of the first five years the amended rule is in effect, the public will benefit from increased access to care by allowing FQHCs, RHCs, and public health clinics to provide healthcare services outside of regular business hours to MCO and PCCM clients without the requirement of a referral from the primary care physician.

#### Regulatory Analysis

HHSC has determined that this proposal is not a "major environmental rule" as defined by §2001.0225 of the Texas Government Code. A "major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### Takings Impact Assessment

HHSC has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

#### Public Comment

Written comments on the proposed amendment may be submitted to Sonceria Williams, by mail to the Medicaid/CHIP Division, Texas Health and Human Services Commission, P.O. Box 85200, MC H320, Austin, Texas 78708-5200; by fax to (512) 491-1972; or by e-mail to sonceria.williams@hhsc.state.tx.us within 30 days of publication of this proposal in the *Texas Register*.

#### Public Hearing

A public hearing is scheduled for October 3, 2007 at 9:00 a.m. in the HHSC Lone Star Conference Room, at 11209 Metric Boulevard, Austin, Texas 78758. Persons requiring further information, special assistance, or accommodations should contact Meisha Spencer at (512) 491-1453.

#### Statutory Authority

The amendment is proposed under the Texas Government Code §531.033, which provides the Executive Commissioner of HHSC with broad rulemaking authority; the Human Resources Code §32.021 and the Texas Government Code §531.021(a), which provide HHSC with the authority to administer the federal medical assistance (Medicaid) program in Texas; and the Texas Government Code §533.002, which directs HHSC to implement the Medicaid managed care program.

The proposed amendment affects the Human Resources Code Chapter 32, and the Texas Government Code Chapters 531 and 533. No other statutes, articles, or codes are affected by this proposal.

§353.407. *Requirements of Managed Care Plans [Organizations].*

(a) (No change.)



(b) Primary Care Case Management (PCCM) and MCOs must reimburse a Federally Qualified Health Center (FQHC), [or] a Rural Health Clinic (RHC), or a municipal health department's public clinic for health care services [Health Care Services] provided to a member outside [Member Outside] of regular business hours, [Regular Business Hours] as defined at §353.2(51) of this title, at a rate that is equal to the allowable rate for those services as determined under §32.028(e) and (f), Human Resources Code, if the member [Member] does not have a referral from the member's primary care physician [Member's Primary Care Physician].

(c) The Commission will require all MCOs to comply with the Commission's policy on contracting and subcontracting with historically underutilized businesses (HUBs). The Commission's policy is to meet the goals and good faith effort requirements as stated in the Comptroller of Public Accounts rules at 34 TAC §§20.11 - 20.28 (relating to Historically Underutilized Business Program) [Texas Building and Procurement Commission rules at 1 TAC §§111.11 - 111.28, relating to Historically Underutilized Business Program].

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 5, 2007.

TRD-200704095

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 424-6900



## **TITLE 10. COMMUNITY DEVELOPMENT**

### **PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

#### **CHAPTER 80. MANUFACTURED HOUSING**

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes new 10 TAC, Chapter 80, §§80.1 - 80.4, 80.20 - 80.26, 80.30 - 80.38, 80.40, 80.41, 80.70 - 80.73, 80.80, 80.90 - 80.93, and 80.100 to comply with HB 1460 that was passed by the 80th Legislature (2007 Regular Session) that becomes effective on January 1, 2008, to remove obsolete rules, and to reorganize rules to improve the layout. The new Chapter 80 is proposed to make the rules more useful, practical and as understandable as possible; organize rules by related subjects more logically; eliminate unnecessary or redundant verbiage; and clean up areas of confusion or conflict.

New Section 80.1. The new section identifies the current installation and construction standards.

New Section 80.2. The new section list definitions of terms used in this title.

New Section 80.3. The new section is a listing of the required fees.

New Section 80.4. The new section addresses the requirements necessary to form an advisory committee.

New Section 80.20. The new section relates to requirements for manufacturer's designs and installation instructions.

New Section 80.21. The new section relates to requirements for the installation of manufactured homes.

New Section 80.22. The new section relates to generic standards for moisture and ground vapor controls.

New Section 80.23. The new section relates to generic standards for footers and piers.

Figure: 10 TAC §80.23(a)(4) - Footer Capacities.

Figure: 10 TAC §80.23(c) - Footer Configurations.

Figure: 10 TAC §80.23(f) - Pier Design.

Figure: 10 TAC §80.23(f)(2) - Pier Loads (without perimeter supports).

Figure: 10 TAC §80.23(f)(3) - Pier Loads (with perimeter supports) and Perimeter Pier View.

Figure: 10 TAC §80.23(g) - Typical Multi-Section Pier Layout.

Figure: 10 TAC §80.23(h) - Typical Single Section Pier Layout.

Figure: 10 TAC §80.23(i)(1) - Column Load and Marriage Line Elevation.

Figure: 10 TAC §80.23(i)(4) - Mating Line Column Loads.

New Section 80.24. The new section relates to generic standards for anchoring systems.

Figure: 10 TAC §80.24(c)(1) - Anchor Installation.

Figure: 10 TAC §80.24(c)(2) - Placement of Stabilizing Devices.

Figure: 10 TAC §80.24(d)(1) - Typical Anchor Layout.

Figure: 10 TAC §80.24(d)(2) - Maximum Spacing for Diagonal Ties.

Figure: 10 TAC §80.24(d)(3) - Minimum Number of Diagonal Ties for Wind Zone I.

Figure: 10 TAC §80.24(e)(1) - Maximum Spacing for Diagonal Ties (Wind Zone II).

Figure: 10 TAC §80.24(f)(4) - Maximum Centerline Wall Opening for Column Uplift Brackets.

Figure: 10 TAC §80.24(f)(5)(D) - Anchor Span.

New Section 80.25. The new section relates to generic standards for multi-section connections standards.

Figure: 10 TAC §80.25(b)(4) - Fastener Options and Maximum Spacings Floor Table and Floor Connections Drawing.

Figure: 10 TAC §80.25(c)(2) - Endwall Connections.

Figure: 10 TAC §80.25(d)(2) - Roof Connection.

Figure: 10 TAC §80.25(e)(6) - Exterior Roof Close-up.

Figure: 10 TAC §80.25(g)(4) - HVAC (Heat/Cooling) Duct Crossover.

Figure: 10 TAC §80.25(h)(3) - Multi-Section Crossover Connection.

Figure: 10 TAC §80.25(i)(1) - Drain, Waste and Vent Floor Piping System.

Figure: 10 TAC §80.25(j)(2) - Chassis Bonding.

Figure: 10 TAC §80.25(j)(3) - Electrical Crossover.

Figure: 10 TAC §80.25(j)(6) - Interior Service Panel and Main Panel Box Feeder Conductor Sizes.

Figure: 10 TAC §80.25(k)(2) - Fuel Gas Pipe Crossover Connections.

New Section 80.26. The new section relates to registration of stabilizing components and systems.

New Section 80.30. The new section relates to responsibilities for all licensees'.

New Section 80.31. The new section relates to manufacturers' responsibilities and requirements.

New Section 80.32. The new section relates to retailers' responsibilities and requirements.

New Section 80.33. The new section relates to installers' responsibilities and requirements.

New Section 80.34. The new section relates to brokers' responsibilities and requirements.

New Section 80.35. The new section relates to salesperson's responsibilities and requirements.

New Section 80.36. The new section relates to rebuilder's responsibilities and requirements.

New Section 80.37. The new section relates to correction requirements.

New Section 80.38. The new section relates to the right to an advance copy of certain documents.

New Section 80.40. The new section relates to security and insurance requirements.

New Section 80.41. The new section relates to license requirements.

New Section 80.70. The new section relates to enforcement.

New Section 80.71. The new section relates to rules for hearings.

New Section 80.72. The new section relates to sanctions and penalties.

New Section 80.73. The new section relates to procedures for handling consumer complaints.

New Section 80.80. The new section relates to administration of claims under the Manufactured Homeowners' Recovery Trust Fund.

New Section 80.90. The new section relates to the issuance of Statements of Ownership and Location.

New Section 80.91. The new section relates to the issuance of a Texas Seal.

New Section 80.92. The new section relates to inventory finance liens.

New Section 80.93. The new section relates to recording tax liens on manufactured homes.

Figure: 10 TAC §80.93(b) - Tax Lien File Layout.

New Section 80.100. The new section relates to forms.

Figure: 10 TAC §80.100(b)(1) - Texas Manufacturer's Application for License.

Figure: 10 TAC §80.100(b)(2) - Out-of-State Manufacturer's Application for License.

Figure: 10 TAC §80.100(b)(3) - Retailer, Broker, and/or Installer's Application for License.

Figure: 10 TAC §80.100(b)(4) - Retailer with Branch Locations Application for License.

Figure: 10 TAC §80.100(b)(5) - Salesperson's Application for License.

Figure: 10 TAC §80.100(b)(6) - Surety Bond.

Figure: 10 TAC §80.100(b)(7) - Deposit Account Control Agreement.

Figure: 10 TAC §80.100(b)(8) - Manufacturer's Certificate of Origin.

Figure: 10 TAC §80.100(b)(9) - Consumer Disclosure Statement.

Figure: 10 TAC §80.100(b)(10) - Warranty and Disclosure for a Used Manufactured Home.

Figure: 10 TAC §80.100(b)(11) - Disclosure of Condition of a Used Manufactured Home.

Figure: 10 TAC §80.100(b)(12) - Retail Monitoring Checklist.

Figure: 10 TAC §80.100(b)(13) - Consumer Notice of Licensed and Bonded Location.

Figure: 10 TAC §80.100(b)(14) - Notice and Informed Consent to Installation on an Improperly Prepared Site.

Figure: 10 TAC §80.100(b)(15) - Formaldehyde Notice.

Figure: 10 TAC §80.100(b)(16) - Texas Inventory Finance Security Form.

Figure: 10 TAC §80.100(b)(17) - Broker Disclosure Form.

Figure: 10 TAC §80.100(b)(18) - Notice of Installation (Form T).

Figure: 10 TAC §80.100(b)(19) - Installation Decal Request Form.

Figure: 10 TAC §80.100(b)(20) - Installation Checklist.

Figure: 10 TAC §80.100(b)(21) - Estimate for Reassigned Warranty Work.

Figure: 10 TAC §80.100(b)(22) - Application for Statement of Ownership and Location.

Figure: 10 TAC §80.100(b)(23) - Application for Correction to Statement of Ownership and Location.

Figure: 10 TAC §80.100(b)(24) - Affidavit of Fact.

Figure: 10 TAC §80.100(b)(25) - Affidavit of Error.

Figure: 10 TAC §80.100(b)(26) - Affidavit of Fact for Right of Survivorship.

Figure: 10 TAC §80.100(b)(27) - Affidavit of Fact for Incomplete SOL Application.

Figure: 10 TAC §80.100(b)(28) - Release or Foreclosure of Lien (Form B).

Figure: 10 TAC §80.100(b)(29) - Statement of Inheritance (Form C).

Figure: 10 TAC §80.100(b)(30) - Taxing Entity Application for Texas Seal (Form S).

Figure: 10 TAC §80.100(b)(31) - Form M.

Figure: 10 TAC §80.100(b)(32) - Instructions to Third Party Closer.

Figure: 10 TAC §80.100(b)(33) - Tax Lien Record and Release Form.

Figure: 10 TAC §80.100(b)(34) - Notification of filing status as a Central Tax Collector.

Joe A. Garcia, Interim Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the new rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections. There will be no effect on small or micro-businesses because of the proposed amendments. There are no anticipated economic costs to persons who are required to comply with the proposed new rules.

Mr. Garcia also has determined that for each year of the first five years that the new rules are in effect the public benefit as a result of enforcing the sections will be: improved organization of rules by related subjects; eliminate unnecessary or redundant verbiage; clean up areas of confusion and conflict; make the rules more useful, practical and as understandable as possible; clarify responsibilities that will increase compliance; and assure that the rules embrace a balanced overall approach that enhances compliance for the benefit of both the industry and consumers while accommodating the needs of related industries.

The Department will conduct a hearing on the proposed new rules on Monday, October 22, 2007 at 1:30 p.m. at 221 E. 11th Street, Room 116, Austin, Texas 78701.

Comments may be submitted to Mr. Joe A. Garcia, Interim Executive Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail at the following address [joe.garcia@tdhca.state.tx.us](mailto:joe.garcia@tdhca.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

## SUBCHAPTER A. CODES, STANDARDS, TERMS, FEES AND ADMINISTRATION

### 10 TAC §§80.1 - 80.4

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

#### §80.1. Texas Manufactured Housing Standards Code.

The standards and requirements for the installation and construction of manufactured housing adopted by the board in accordance with §1201.251(a)(1) of the Texas Manufactured Housing Standards Act (Standards Act) are as follows:

(1) The construction standards set out in Title VI of the Housing and Community Development Act of 1974, as the same may be amended from time to time, or under any official rule, official inter-

pretation, or adopted standard issued or adopted by the Department of Housing and Urban Development under such law;

(2) The installation standards set forth in this chapter; and

(3) Applicable standards for installation components established by

(A) Chapter 43 of the latest edition of the International Residential Code;

(B) The stabilizing component destruction test failure criteria of the FMHCSS, as implemented by 24 CFR, Part 3280 and the latest edition of the International Residential Code, Appendix E; and

(C) The American Wood Preserver's Association and referenced by the latest edition of the International Residential Code Preservation for treated (PT) wood components.

(4) Collectively, the foregoing, together with the Standards Act and these rules, are referred to as the Texas Manufactured Housing Standards Code ("the Code").

#### §80.2. Definitions.

Terms used herein that are defined in the Code and the Standards Act have the meanings ascribed to them therein. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) APA--Administrative Procedure Act, Texas Government Code, Chapter 2001.

(2) Business days--Includes every day on the calendar except Saturday, Sunday, and federal and state holidays.

(3) Chattel Mortgage--Any loan that is not subject to the Real Estate Settlement Procedures Act (RESPA).

(4) Coastline--The shoreline that forms the boundary between the land and the Gulf of Mexico or a bay or estuary connecting to the Gulf of Mexico that is more than five miles wide.

(5) Cosmetic--Matters of flaws and finish, appearance, materials or workmanship not covered by 24 CFR Part 3280.

(6) Credit document--Any executed written agreements between the consumer and creditor that describe or are required in connection with an actual credit transaction.

(7) Creditor--A person involved in a credit transaction who:

(A) extends or arranges the extension of credit; or

(B) is a retailer or broker as defined in the Standards Act and participates in arranging for the extension of credit.

(8) Custom designed stabilization system--An anchoring and support system that is not an approved method as prescribed by the state generic standards, manufacturer's installation instructions, or other systems pre-approved by the Department.

(9) Dangerous conditions--Any condition which, if present, would constitute an imminent threat to health or safety.

(10) DAPIA--The Design Approval Primary Inspection Agency.

(11) Department or TDHCA--The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA).

(12) Dwelling unit--One or more habitable rooms which are designed to be occupied for living.

(13) FMHCSS--Federal Manufactured Home Construction and Safety Standards that implement the National Manufactured Home Construction and Safety Standards Act of 1974, 42 USC 5401, et seq., as amended from time to time.

(14) Independent testing laboratory--An agency or firm that tests products for conformance to standards and employs at least one engineer or architect licensed in at least one state.

(15) Inventory Lender--A person that is involved in extending credit for inventory financing secured by manufactured housing.

(16) IPIA--The Production Inspection Primary Inspection Agency which evaluates the ability of manufactured home manufacturing plants to follow approved quality control procedures and/or provides ongoing surveillance of the manufacturing process.

(17) Long-Term Lease--For the purpose of determining whether or not the owner of a manufactured home may elect to treat the home as real property, is a lease on land to which the manufactured home has been attached and which:

(A) has been approved by each lienholder for the manufactured home by placing on file with the Department written consent to have the home treated as real property; or

(B) is for at least five years if the home is not financed.

(18) Main frame--A chassis or structure serving a similar purpose.

(19) Manufactured home identification numbers--HUD label number, serial number, or Texas seal number. For the purpose of maintaining ownership and location records, including the perfection of liens, the numbers shall include the HUD label number(s) and the serial number(s) imprinted or stamped on the home in accordance with HUD departmental regulations. For homes manufactured prior to June 15, 1976, the Texas seal number, as issued by the Department, shall be used instead of the HUD label number. If a home manufactured prior to June 15, 1976, does not have a Texas seal, or if a home manufactured after June 15, 1976, does not have a HUD label, a Texas seal shall be purchased from the Department and attached to the home in upper left corner on the end opposite the tongue end and used for identification in lieu of the HUD label number.

(20) Manufactured home site--That area of a lot or tract of land on which a manufactured home is installed.

(21) Permanent foundation--A foundation which meets the requirements of §80.21 of this title (relating to Requirements for the Installation of Manufactured Homes) and was constructed according to drawings, as required by that section, which state that the foundation is a permanent foundation for a manufactured home.

(22) Promptly--Means within the time prescribed by the Standards Act, these Rules, and any administrative order (including any properly granted extension) or, in the case of a matter that constitutes an imminent threat to health or safety, as quickly as reasonably possible.

(23) Stabilization systems--A combination of the anchoring and support system. It includes, but is not limited to the following components:

(A) Anchoring components--Any component which is attached to the manufactured home and is designed to resist the horizontal and vertical forces imposed on the manufactured home as a result of wind loading. These components include, but are not limited to auger anchors, rock anchors, slab anchors, ground anchors, stabilizing devices, connection bolts, j-hooks, buckles, and split bolts.

(B) Anchoring equipment--Straps, cables, turnbuckles, tubes, and chains, including tensioning devices, which are used with ties to secure a manufactured home to anchoring components or other devices.

(C) Anchoring systems--Combination of ties, anchoring components, and anchoring equipment that will resist overturning and lateral movement of the manufactured home from wind forces.

(D) Diagonal tie--A tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(E) Footing--That portion of the support system that transmits loads directly to the soil.

(F) Ground anchor--Any device at the manufactured home site designed to transfer manufactured home anchoring loads to the ground.

(G) Longitudinal ties--Designed to prevent lateral movement along the length of the home.

(H) Shim--A wedge-shaped piece of hardwood or other registered component not to exceed one (1) inch vertical (actual) height.

(I) Stabilizing components--All components of the anchoring and support system such as piers, footings, ties, anchoring equipment, ground anchors and any other equipment, which supports the manufactured home and secures it to the ground.

(J) Support system--A combination of footings, piers, caps and shims that support the manufactured home.

(K) Vertical tie--A tie intended primarily to resist the uplifting and overturning forces.

(24) Used home--Any manufactured home (or mobile home) which has been occupied for living or for which a Statement of Ownership and Location has been issued.

### §80.3. Fees.

#### (a) License Fees and Renewal Fees:

- (1) \$850 for each manufacturer's plant license;
- (2) \$550 for each retailer's sales license;
- (3) \$550 for each retailer's branch location sales license;
- (4) \$550 for each rebuilder's license;
- (5) \$350 for each broker's license;
- (6) \$350 for each installer's license; and
- (7) \$200 for each salesperson's license.

#### (b) Installation Fees:

(1) There is a reporting fee of \$75 for the installation of a single section manufactured home and \$25 for each additional section.

(2) The reporting fee must be submitted to the Department with the completed Notice of Installation (Form T) no later than seven (7) days after which the installation is completed.

(3) Fee distributions to local governmental entities performing inspection functions pursuant to contract with the Department shall be made in accordance with Department procedures and the provisions of the contract.

(c) Seal Fee: Except for an application by a tax appraiser or a tax assessor-collector, for which there is no fee, there is a fee of \$35 for the issuance of a Texas Seal for one manufactured home section. Any person who sells, exchanges, lease purchases, or offers for sale, exchange, or lease purchase one or more sections of used HUD-Code

manufactured homes manufactured after June 15, 1976, that do not each have a HUD label affixed, or one or more sections of a used mobile home manufactured prior to June 15, 1976, that do not each have a Texas Seal affixed shall file an application to the Department for a Texas Seal. The application shall be accompanied by the seal fee of \$35 per section made payable to the Department.

(d) Education Fee: Each attendee at the regularly offered course of initial instruction in the law and consumer protection regulations for license applicants shall be assessed a fee of \$250. Subject to availability of staff, the Department may provide additional initial instruction courses upon request for a fee of \$250 per attendee plus reimbursement to the Department for the actual costs of the training session and any related costs, such as travel, meal, and lodging.

(e) There is a fee of \$300 to process an application for a contract to be approved to provide an initial instruction for licensing course or a continuing education program under §1201.113 of the Standards Act.

(f) Industry Request. The manufacturer or retailer may request a consumer complaint home inspection. The request must be accompanied by the required fee of \$150.00.

(g) There is a fee of \$150 for the inspection of a manufactured home which is to be designated for residential use after having been previously designated for business use or which is elected as personal property after having been designated as real property. The purpose of the inspection is to determine if the home is habitable. The fee must accompany a written request for inspection and must be submitted either prior to or in connection with the submission of an Application for Statement of Ownership and Location.

(h) There is a fee of \$200 for the plan review and inspection of a salvaged manufactured home which is to be rebuilt. The purpose of the inspection is to determine if the home is habitable so that it may be designated for residential use.

(1) The fee and required notification shall be submitted in accordance with §80.36 of this title (relating to Rebuilder's Responsibilities and Requirements).

(2) The rebuilder shall also be charged for mileage and per diem incurred by Department personnel traveling to and from the location of the home.

(3) The Department shall invoice the rebuilder for the charges incurred, and no Statement of Ownership and Location shall be issued until all charges and fees have been paid.

(i) There is no fee for an initial inspection relating to a complaint. If a re-inspection is requested by a consumer or a licensee, a fee of \$150 will be assessed against any licensee found, by final order, to have violated any warranty or any other requirements of the Standards Act or these rules made the subject of the complaint.

(j) Fees Relating to Statements of Ownership and Location. Each fee shall accompany the required documents delivered or mailed to the Department at its principal office in Austin.

(1) A fee of \$55 will be required for the issuance of a Statement of Ownership and Location;

(2) A fee of \$1.50 will be required for each additional requested certified copy other than copies provided at issuance as required by the Standards Act;

(3) If a correction of a document is required as a result of a mistake by the Department, there is no fee for the issuance of corrected document. However, if the error was not made by the Department, a request for correction of the error must be made on a completed Ap-

plication for Statement of Ownership and Location and submitted to the Department along with the required fee of \$55 and any necessary supporting documentation.

(4) When multiple applications are submitted, the Form M set forth in Subchapter I of this chapter (relating to Forms), must be completed and attached to the front of the applications to identify each application and reconcile the fee for each application with the total amount of the payment. Failure to provide this form, properly completed, will delay the application's being deemed complete for processing.

(k) Method of Payment.

(1) All checks shall be made payable to the Texas Department of Housing and Community Affairs or TDHCA.

(2) All license renewals may also be paid by credit card or ACH, if submitted through Texas Online.

(l) Loss of Check Writing Privileges. Any person who has more than one (1) time paid for anything requiring a fee under these rules with a check that is returned uncollectible, whether "NSF", closed account, refer to maker, or for any similar reason, is required to make all future payments, if any, by means of money order or cashier's check.

(m) The director may approve a refund of all or a portion of any fee collected if he or she makes a documented determination showing that:

(1) The fee was for a service applied for in error based on incorrect advice from the Department; or

(2) The fee represented a duplicate payment for a service for which money had already been collected by the Department or a licensee.

§80.4. Advisory Committee.

The Board Chair shall designate and report to the Board the membership of an advisory committee of not more than 24 members, that meets the requirements of §1201.251(d) of the Standards Act, and the committee shall report as specified §1201.205(e) of the Standards Act.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704107

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## **SUBCHAPTER B. INSTALLATION STANDARDS AND DEVICE APPROVALS**

### **10 TAC §§80.20 - 80.26**

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the

director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

§80.20. Requirements for Manufacturer's Designs and Installation Instructions.

(a) With each new home, the manufacturer shall provide printed instructions which at a minimum must:

(1) specify the location, orientation and required capacity of stabilizing components on which the design is based;

(2) be filed with the Department;

(3) be approved by the manufacturer's DAPIA; and

(4) contain DAPIA approval stamps, engineer or architect approval stamps, and the installation manual effective date on each page of the installation instructions or on the cover pages of bound installation manuals, unless an equivalent method of authentication is used for electronically filed documents.

(b) If a manufacturer determines that one or more of its homes requires a deviation from the generic standards to protect the structural integrity of the home, the manufacturer must include instructions for the necessary deviation in the manufacturer's DAPIA-approved installation instructions and provide a list of all homes affected. The manufacturer must provide a copy to the Department along with a letter informing the Department of the required deviation included in the instructions and giving the Department permission to reproduce and release copies of such instructions upon request. On the Department's website, the Department will maintain a current list of all required deviations from generic standards and will provide a copy to anyone who requests it.

(c) At least thirty (30) calendar days prior to the effective date of any change, modification, or update to the manufacturer's installation instructions or any appendix, the manufacturer shall file such change, modification, or update with the Department and mail a copy(s) to all the manufacturer's retailers. Links to appendix are posted on the Department's website.

(d) The manufacturer shall file with the Department additional copies of manufacturer's installation instructions for each model in the number specified by the Department. If no number is specified, one copy of each such set of instructions will suffice.

(e) If the Department finds that the manufacturer's instructions do not address all matters necessary to enable the Department to inspect an installation, the Department will advise the manufacturer that the State Generic Instructions will be used for matters not addressed and request that the manufacturer amend its DAPIA approved instructions within thirty days (30) of notification.

§80.21. Requirements for the Installation of Manufactured Homes.

(a) When they are installed, all manufactured homes shall be installed by a licensed installer to resist overturning and lateral movement of the home, and the installation must be completed in accordance with instructions appropriate for the Wind Zone where the home is to be installed as per one of the following:

(1) the home manufacturer's DAPIA-approved installation instructions;

(2) the state's generic standards set forth in §§80.22, 80.23, 80.24, and 80.25 of this title;

(3) the instructions for a stabilization system registered with the Department in accordance with §80.26 of this title (relating to Registration of Stabilizing Components and Systems); or

(4) the instructions for a special stabilization system which:

(A) may or may not be a permanent foundation;

(B) is for a particular manufactured home or an identified class of manufactured homes to be installed at a particular area with similar soil properties according to county soil survey or other geotechnical reports; and

(C) is either:

(i) a pre-existing foundation for which a professional engineer or architect licensed in Texas has issued written approval for the installation of a particular home, and the written approval shall be submitted to the Department with the installation report; or

(ii) installed in accordance with a custom designed stabilization system drawing that is stamped by a Texas licensed professional engineer or architect. A copy of the stabilization system drawing must be forwarded to the Department along with the installation report.

(b) When a home is installed on a stabilization system registered with the Department or a special stabilization system, the installer must follow the home manufacturer's DAPIA-approved installation instructions for any aspect of the installation that is not covered by the system's installation instructions or drawings.

(c) The installer must use stabilizing components that have the required capacity and install them according to the anchor or stabilizing component manufacturer's current installation instructions. All stabilizing components must be resistant to all effects of weathering including that encountered along the Texas gulf coast. Anchors must be made of non corrosive material. Nonconcrete stabilizing components and systems for use within 1500 feet of the coastline shall be specifically certified for this use. Preservation treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code. NOTE: If you are using a reconditioned/used piece of equipment (i.e., anchor, strap, clip etc.) then the original product number, vendor name, and/or patient number must be legible on the product.

(d) Site Preparation Responsibilities and Requirements:

(1) A consumer acquiring a manufactured home to be installed, new or used, is responsible for the proper preparation of the site where the manufactured home will be installed except as set forth in §80.22 of this title (relating to Generic Standards for Moisture and Ground Vapor Controls).

(2) Whenever a licensed retailer intends to sell a manufactured home, regardless of where it is located or is to be located, the retailer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter (relating to Forms) PRIOR to the execution of any binding sales agreement.

(3) Whenever a licensed installer proposes to move a used manufactured home, the installer is required to give the consumer the Site Preparation Notice, for signature by the consumer, in the form set forth in Subchapter I of this chapter PRIOR to entering into a binding agreement to move that home.

(e) If at the time of installation or within 90 days thereafter as stated on the contract, the retailer or installer provides the materials for skirting or contracts for the installation of skirting, the retailer or in-

staller is responsible for installing any required moisture and ground vapor control measures in accordance with the home installation instructions, specifications of a registered stabilization system, or the generic standards and shall provide for the proper cross ventilation of the crawl space. If the consumer contracts with a person other than the retailer or installer for the skirting, the consumer is responsible for installing the moisture and ground vapor control measures and for providing for the proper cross ventilation of the crawl space.

(f) Clearance: If the manufactured home is installed according to the state's generic standards, a minimum clearance of 18 inches between the ground and the bottom of the floor joists must be maintained. In addition, the installer shall be responsible for installing the home with sufficient clearance between the I-Beams and the ground so that after the crossover duct prescribed by the manufacturer is properly installed it will not be in contact with the ground. Refer to §80.25 of this title (relating to Generic Standards for Multi-Section Connections Standards) for additional requirements for utility connections. The installer must remove all debris, sod, tree stumps and other organic materials from all areas where footings are to be located.

(g) Drainage: The consumer is responsible for proper site drainage where the manufactured home (new or used) is to be installed unless the home is installed in a rental community. Drainage prevents water build-up under the home. Water build-up may cause shifting or settling of the foundation, dampness in the home, damage to siding and bottom board, buckling of walls and floors, delamination of floor decking and problems with the operation of windows and doors.

§80.22. Generic Standards for Moisture and Ground Vapor Controls.

(a) If the manufactured home is installed according to the state's generic standards and the space under the home is to be enclosed with skirting and/or other materials provided by the retailer and/or installer, the enclosure must meet the following requirements:

(1) At least one access opening that does not require the use of tools to gain access shall not be less than 18 inches in any dimension and not less than three square feet in area shall be provided by the installer. The access opening shall be located so as to enable, to the extent reasonably possible, the visual inspection of water supply and sewer drain connections.

(2) If a clothes dryer exhaust duct, air conditioning condensation drain, or combustion air inlet is present, the installer must pass it through the skirting to the outside.

(3) Crawl space ventilation must be provided at the rate of minimum 1 square foot of net free area, for every 150 square feet of floor area.

(4) At least six openings shall be provided, one at each end of the home and two on each side of the home. The openings shall be screened or otherwise covered to prevent entrance of rodents (note: screening will reduce net free area). For example, a 16' x 76' single section home has 1216 square feet of floor area. This 1216 square feet divided by 150 equals 8.1 square feet or 1166 square inches of net free area crawl space ventilation.

(b) The generic ground vapor control measure shall consist of a ground vapor retarder that is minimum 6 mil polyethylene sheeting or its equivalent, installed so that the area under the home is covered with sheeting and overlapped approximately 12 inches at all joints. Any tear larger than 18 inches long or wide must be taped using a material appropriate for the sheeting used. The laps should be weighted down to prevent movement. Any small tears and/or voids around construction (footings, anchor heads, etc.) are acceptable.

§80.23. Generic Standards for Footers and Piers.

(a) Proper sizing of footings depends on the load carrying capacity of both the piers and the soil. To determine the load bearing capacity of the soil, the installer may use any of the following methods:

(1) Using a pocket penetrometer;

(2) Soil surveys from the U.S. Department of Agriculture;

(3) Values from tables of allowable or presumptive bearing capacities given in local building codes. Such tables are commonly available from the local authority having jurisdiction; or

(4) Any other test data from soil analysis reports.

Figure: 10 TAC §80.23(a)(4)

(b) The footing must be placed on firm, undisturbed soil, or fill compacted to at least 90% of its maximum relative density. Installation on loose, noncompacted fill may invalidate the home's limited warranty.

(c) Footer Configurations.

Figure: 10 TAC §80.23(c)

(d) Footer sizing and capacities: The Footer Capacities table in subsection (a)(4) of this section represent maximum loads and spacings based on footer size and soil bearing capacity. Other footers may be used if equal or greater in bearing area than those footer sizes tabulated.

(e) Piers and pier spacings: Spacing and location of piers shall be in accordance with the tables listed in this chapter.

(1) Spacing shall be as even as practicable avoiding obstacles that are not in control of the installer along each main I-Beam. Pier spacing may exceed tabulated values up to 30% so long as the total pier count remains the same. End piers are to be located within 24 inches of the end of the main frame.

(2) Piers shall extend at least 6 inches from the centerline of the I-Beam or be designed to prevent dislodgment due to horizontal movement of less than 4 inches.

(3) Load bearing supports or devices shall be registered with the Department in accordance with §80.26 of this title (relating to Registration of Stabilizing Components and Systems).

(4) Sidewall openings greater than 4 feet shall have perimeter piers located under each side of the opening, i.e., patio doors, recessed porches/entries, bay windows and porch posts. Perimeter piers for openings are not required for endwalls. However, perimeter piers are required at a door less than 48 inches only to make an inoperable door operational.

(f) Pier design: Piers shall be constructed per the details in the Pier Design.

Figure: 10 TAC §80.23(f)

(1) Shimming (if needed): Shims are commonly used as a means for leveling the home and filling any voids left between the bottom flange of the I-Beam and the top of the pier cap. Wedge shaped shims must be installed from both sides of the I-Beam to provide a level bearing surface. The allowable height must not exceed 1 inch. Shims shall be a minimum of 3x6 nominal.

(2) Table for pier spacing without perimeter piers.

Figure: 10 TAC §80.23(f)(2)

(3) Table for pier spacing WITH perimeter supports and the Perimeter Pier Front and Side View.

Figure: 10 TAC §80.23(f)(3)

(g) Typical Multi-Section Pier Layout.

Figure: 10 TAC §80.23(g)

(h) Typical Single Section Pier Layout.  
Figure: 10 TAC §80.23(h)

(i) Multi-section units mating line column supports:

(1) On multi-section units, openings larger than 4 feet must have piers installed at each end of the opening and within 6 inches of each end.

Figure: 10 TAC §80.23(i)(1)

(2) Column loads for each section may be combined when the columns are opposite each other. The footer must be sized for the combined loading.

(3) Additional piers are required under marriage walls (see wall between column #3 and #4 in the Marriage Line Elevation figure in paragraph (1) of this subsection. The maximum spacing is the same as the spacing at the main I-Beams, without perimeter piers, and one half the spacing of the perimeter piers, with perimeter piers installed.

(4) See the following table for the mating line column loads.

Figure: 10 TAC §80.23(i)(4)

§80.24. Generic Standards for Anchoring Systems.

(a) General Requirements: For units built on or after September 1, 1997, the installer must verify that the unit is designed for the Wind Zone in which it is to be installed and must follow all applicable installation instructions for that Wind Zone as set forth herein. Note: A Wind Zone I unit, built on or after September 1, 1997, may not be installed in a Wind Zone II area. However, a Wind Zone II unit may be installed in a Wind Zone I area. The counties are defined in the FMHCCS.

(b) Material Specifications:

(1) Strapping shall be Type 1, Finish B, Grade 1 steel strapping, 1.25 inches wide and 0.035 inches in thickness, certified by a licensed professional engineer or architect as conforming with the American Society for Testing and Materials (ASTM) Standard Specification D3953 91, Standard Specification for Strapping, Flat Steel, and Seals. Strapping shall be marked at least every five feet with the marking described by the certifying engineer or architect.

(2) Tie materials shall be capable of resisting an allowable working load of 3,150 pounds with no more than 2% elongation and shall withstand a 50% overload (4,725 pounds total). Ties shall have a resistance to weather deterioration at least equivalent to that provided by coating of zinc on steel of not less than 0.30 ounces per square foot on each side of the surface coated (0.0005 inches thick), as determined by ASTM Standards Methods of Test for Weight of Coating on Zinc-coated (galvanized) Iron or Steel Articles (ASTM A 90-81). Slit or cut edges of zinc-coated steel strapping are not required to be zinc coated. Ties shall be designed and installed to prevent self disconnection when the ties are slack.

(3) Anchor spacing ONLY applies to units with roof pitch of 20 degrees or less. For anything over 20 degrees, it must be designed by a professional engineer or architect.

(c) Anchors shall be installed:

(1) in direction of load.

Figure: 10 TAC §80.24(c)(1)

(2) against direction of load (vertical and/or angled), and a stabilizer plate must be installed. See the following Placement of Stabilizing Devices.

Figure: 10 TAC §80.24(c)(2)

(d) WIND ZONE I Installation:

(1) Typical anchor layout, single and multi-section units (WIND ZONE I ONLY).

Figure: 10 TAC §80.24(d)(1)

(2) Maximum spacing for Diagonal Ties for Wind Zone I.

Figure: 10 TAC §80.24(d)(2)

(3) Minimum Number of Diagonal Ties for Wind Zone I.

Table based on 2 feet inset of anchors at each end.

Figure: 10 TAC §80.24(d)(3)

(4) When auger anchors cannot be inserted into a difficult soil after moistening, such as mixed soil and rock or caliche (heavily weathered limestone) that is not solid rock, cross drive rock anchors may be used in accordance with the values and notes for the table modified as follows:

(A) Since the ultimate anchor pull out in the difficult soil will be reduced, the maximum spacing for diagonal ties per side is one half the spacing allowed by the table in paragraph (2) of this subsection which will require adding one additional cross drive rock anchor for each anchor specified for the sides and ends;

(B) The rods of the cross drive rock anchors must be fully inserted, have at least 24 inches of the rod lengths embedded in the difficult soil, and be restrained from horizontal movement by a stabilizer device between the rods and the home if feasible; and

(C) Each cross drive rock anchor is connected to one diagonal tie and is not connected to a vertical tie.

(5) Where vertical tie locations are not easily discernable, the vertical ties may be connected to the main I-Beam rails and the anchor installed directly below that connection point. The diagonal tie must be connected to the opposite main I-Beam. In no case shall the distance between those ties exceed 5'-4" on-center.

(e) WIND ZONE II Installation:

(1) In place of the requirements as shown in subsection (d) of this section, units designed for Wind Zone I and built prior to September 1, 1997, and units designed for Wind Zone II and built prior to July 13, 1994, require diagonal ties as set forth in this paragraph when these units are installed in Wind Zone II. See also §1201.256 of the Standards Act. Items not specifically addressed in this section are the same as for Wind Zone I installations.

Figure: 10 TAC §80.24(e)(1)

(2) Units built to Wind Zone II on or after July 13, 1994.

(A) Units built to Wind Zone II on or after July 13, 1994, should have either built-in, or provisions for connecting, vertical ties along the sidewall(s) of each unit(s). A diagonal tie must be installed at each vertical tie location (except for designated shearwall tie). Built-in vertical ties shall be connected to anchors. If there are brackets or other provisions for connecting vertical ties, vertical ties shall be added at the brackets or provisions and connected to anchors.

(B) Only factory installed vertical ties may be closer than 4 feet from each other.

(C) Where tie locations are clearly marked as a shear wall strap, a perimeter pier must be installed at that location. Diagonal tie is not required.

(D) Where the vertical tie spacing exceeds 8'-0" on-center (see also note 6 in the table in paragraph (1) of this subsection for exception), the anchoring system must be approved by the home manufacturer's installation manual, or designed by a professional engineer or architect licensed in the state of Texas.



(E) Where pier heights exceed 36 inches in height, the diagonal strap shall be connected to the opposite I-Beam.

(3) Multi-section centerline anchoring requirements (Wind Zone II only):

(A) Centerline anchor ties are required for ALL Wind Zone II installations, regardless of the date the unit was manufactured, when installation occurs on or after the effective date of these rules.

(B) Factory installed centerline vertical ties, brackets, buckles or any other connecting devices must be connected to a ground anchor. No additional anchors as described in subparagraph (D) of this paragraph are required.

(C) To avoid obstructions and/or piers and footers, the anchor may be offset up to 12 inches perpendicular to the centerline.

(D) Where factory preparations do not exist, install anchors and angle iron brackets at each side of mating line openings wider than 48 inches.

(i) Where equal spans exist opposite each other (i.e., each section), a double bracket assembly may be used. The maximum opening is per the table in subsection (f) (4) of this section. Total uplift load may not exceed the anchor and/or strap capacity (i.e., 3150 pounds).

(ii) The angle iron bracket is minimum 1 1/2" x 1 1/2" x 11 gauge. The holes for the lag screws are a maximum of 4 inches apart and 3/4 from the edge of the bracket.

(iii) Lag screws/bolts are minimum 3/8" diameter x 3 inches, full thread. Note: Pre drill pilot holes.

(4) For openings separated by a wall or post 16 inches or less in width, the opening span is the total of the spans on each side of the wall/post.

(f) Bracket Installation.

(1) See the table in paragraph (4) of this subsection concerning the maximum centerline wall opening for column uplift brackets.

(2) Use a single bracket for openings which exist on one section only. Use double bracket where openings are opposite each other on two sections of the home.

(3) When only one bracket assembly is required, it may be installed on either side of the column/opening stud(s), but no more than 12 inches from the column or opening stud(s).

(4) When two bracket assemblies are required, they must be installed on each side of the column/opening stud(s), but no more than 12 inches from the column/opening stud(s), and they must be angled away from each other a minimum of 12 inches.

Figure: 10 TAC §80.24(f)(4)

(5) Example: A double section unit with each section being 14 feet wide;

(A) Span "A" is 18'-0", matching span both sections;

(B) Span "B" is 14'-8", matching span both sections;

(C) Span "C" is 6'-8", matching span both sections; and

(D) Span "D" is 13'-4", one side only.

Figure: 10 TAC §80.24(f)(5)(D)

(6) Longitudinal ties:

(A) Longitudinal ties are required for ALL wind zone installations, regardless of the date of manufacture, when installation occurs after the effective date of these rules.

(B) Longitudinal ties are designed to prevent lateral movement along the length of the home.

(C) When conventional anchors and straps are used, the required number of ties must be installed as appropriate. The strap(s) may be connected or wrapped around front or rear chassis header members, around existing cross members or spring hangers. A strap must be within 3 inches of where the cross member attaches to the main I-beam. Alternatively, brackets to receive the strap(s) may be attached to the bottom flange of the main I-beams. The location of the connection points along the length of the I-beams are not critical, as long as the number of longitudinal ties required for each end of each home section are installed with their pull in opposite directions. No two anchors shall be within 4 ft of each other. No two ties shall be attached to the same structural member of the home, other than a main longitudinal frame member or a front or rear chassis header member.

(D) Anchors require stabilizer plates when the anchor shaft is not in line with strap (plus or minus 10 degrees).

§80.25. Generic Standards for Multi-Section Connections Standards.

(a) Air infiltration and water vapor migration at mating surfaces: Before positioning additional sections, the mating line surfaces along the floor, endwall and ceiling, require material or procedures to limit air infiltration and water vapor migration.

(1) Expanding Foam: Foam may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units.

(2) Caulking: Caulking may be used along surfaces that are accessible after the units have been joined. Where mating line walls line up between sections, non-porous materials must be installed prior to joining the units.

(3) Non-porous gasket installed along the perimeter of all mating lines.

(4) Insulation, carpet, carpet pad or other porous materials are not acceptable.

(b) Floor Connections:

(1) Gaps between floors up to 1-1/2 inches maximum which do not extend the full length of the floor may be filled with lumber, plywood or other suitable shimming materials. Fastener lengths in shimmed areas may need to be increased to provide minimum 1-1/4 inches penetration into opposite floor rim joist.

(2) Gaps less than 1/2 inch width need not be shimmed.

(3) The floor assemblies of multi-section units must be fastened together. Fastener options and maximum spacings are listed in the floor connections figure in paragraph (4) of this subsection.

(4) Any tears or damages to the bottom board due to fastener installation must be repaired.  
Figure: 10 TAC §80.25(b)(4)

(c) Endwall Connections:

(1) Endwalls must be fastened together at the mating line with minimum #8 x 4 inch wood screws or 16d nails at maximum 8 inches on-center or 12 inches on-center maximum for 5/16 lags; toed or driven straight; and

(2) Fastener length may need to be adjusted for gaps and/or toeing, to provide minimum 1-1/2 inch penetration into opposite end-wall stud.

Figure: 10 TAC §80.25(c)(2)

(d) Roof Connection: (Note: Fasteners must not be used to pull the sections together.)

(1) Roof shall be connected with the fasteners and spacings specified in the figure in paragraph (2) of this subsection.

(2) Gaps between the roof sections (at ridge beam and/or open beam ledgers) of up to 1-1/2 inches wide maximum which do not extend the full length of the roof must be filled with lumber and/or plywood shims. Gaps up to 1/2 inch need not be shimmed. The fastener length used in the shimmed area may need to be increased to provide a minimum 1-1/4 inch penetration into the adjacent roof structural member.

Figure: 10 TAC §80.25(d)(2)

(e) Exterior Roof Close Up:

(1) Ensure that shingles are installed to edge of roof decking at peak. Follow nailing instructions on the shingle wrapper. Note: Wind Zone II (high wind) installations require additional fasteners.

(2) Before installing ridge cap shingles, a minimum 6 inch wide piece of 30 gauge galvanized flashing must be installed the length of the roof.

(3) When flashing is not continuous, lap individual pieces a minimum of 6 inches.

(4) Fasten flashing into roof sheathing with minimum 16 gauge staples with 1 inch crown or roofing nails of sufficient length to penetrate roof decking. Maximum fastener spacing is 6 inches on-center each roof section. Place fasteners a minimum of 3/4 inches along edge of flashing.

(5) Install ridge shingles directly on top of flashing.

(6) Check and repair as necessary the remainder of roof for any damaged or lose shingles, remove any shipping plastic or netting, wind deflectors, etc. Make sure to seal any fastener holes with roofing cement.

Figure: 10 TAC §80.25(e)(6)

(f) Exterior Endwall Close Up: Cut closure material to the shape and size required and secure in place, starting from the bottom up, i.e.: bottom starter, vertical or horizontal siding, then roof overhang, soffit and fascia. All closure material should be fitted and sealed as required to protect the structure or interior from the elements.

(g) HVAC (heat/cooling) Duct Crossover:

(1) Crossover duct must be listed for EXTERIOR use.

(2) Duct R-value shall be a minimum of R-4.

(3) The duct must be supported 48 inches on-center (maximum) and must not be allowed to touch the ground. Either strapping (minimum 1 inch wide), to hang the duct from the floor, or non-continuous pads to support it off the ground are acceptable.

(4) The duct to the collar or plenum connections must be secured with bands or straps designed for such use. Keep duct as straight as possible to avoid kinks or bends that may restrict the airflow. Extra length must be cut off.

Figure: 10 TAC §80.25(g)(4)

(h) Multi-Section Water Crossover:

(1) If there is water service to other sections, connect the water supply crossover lines as shown in the applicable detail.

(2) If the water crossover connection is not within the insulated floor envelopes, wrap the exposed water lines in insulation and secure with a good pressure sensitive tape or nonabrasive strap, or enclose the exposed portion with an insulated box.

(3) If water piping at the inlet is exposed, a heat tape should be installed to prevent freezing. A heat tape receptacle has been provided near the water inlet. When purchasing a heat tape, it must be listed for manufactured home use, and it must be installed per manufacturer's instructions.

Figure: 10 TAC §80.25(h)(3)

(i) Drain, Waste and Vent System (DWV):

(1) Portions of the DWV system which are below the floor may not have been installed, to prevent damage to the piping during transport. Typically, the DWV layout is designed to terminate at a single connection point to connect to the on-site sewer system. For a new home where on-site DWV connections are not assembled per the manufacturer's instructions, the DWV system must be assembled in accordance with Part 3280 of the FMHCSS.

Figure: 10 TAC §80.25(i)(1)

(2) The following guidelines apply:

(A) All portions of the DWV system shall be installed to provide a minimum of 1/4 inch slope per foot, in the direction of the flow.

(B) Changes in direction from vertical to horizontal, and horizontal to horizontal, shall be made using long sweep elbows and/or tees.

(C) All drain piping shall be supported at intervals not to exceed 4 feet on-center. The support may be either blocking or strapping. When strapping is used, it should be nonabrasive.

(D) Piping must be assembled with the appropriate cleaners, primers and solvents (note: both ABS and PVC systems are common, but will require adhesives). Be sure to follow the instructions of the product used.

(E) A cleanout must be installed at the upper (most remote) end of the floor piping system.

(j) Electrical Connections: Depending on the model and/or manufacturer of the home, electrical crossovers may be located in either the front end and/or rear end of the home. Check along mating line for other labeled access panels.

(1) Crossover connections may be one of the following:

(A) snap or plug-in type;

(B) junction boxes inside floor cavity (note: crossover wiring routed outside the floor cavity must be enclosed in conduit). If the boxes and/or covers are metal, they must be grounded by the use of the ground wire; or

(C) pigtail between receptacles/switches between sections (one circuit only and enclosed in a j-box according to the National Electrical Code (NEC).

(2) Chassis Bonding: Each chassis shall be bonded to the adjacent chassis with a solid or stranded, green insulated or bare, number 8 copper conductor. The conductor is connected to the steel chassis with a solderless lug. Alternate bonding: A 4 inch wide by 30 gauge continuous metal strap may be used as an alternate, when attached to

the chassis members with two #8 x 3/4 inch self tapping metal screws each end of the strap.

Figure: 10 TAC §80.25(j)(2)

(3) Electrical Crossover.

Figure: 10 TAC §80.25(j)(3)

(4) Shipped loose equipment:

(A) Electrical equipment such as ceiling fans, chandeliers, exterior lights, etc., which may have been shipped loose, must be installed in accordance with the adopted (NEC). Connect all corresponding color coded or otherwise marked conductors per the applicable sections of the NEC.

(B) Bonding strap removal: 240 volt appliances (range, dryer, etc.) shall have the bonding strap removed between the ground and the neutral conductors. Cords used to connect those appliances shall be four conductor, four prong.

(5) Electrical testing: At the time of installation, the following tests must be performed:

(A) All site installed or shipped loose fixtures shall be subjected to a polarity test to determine that the connections have been properly made.

(B) All grounding and bonding conductors installed or connected during the home installation shall be tested for continuity, and

(C) All electrical lights, equipment, ground fault circuit interrupters and appliances shall be subjected to an operational test to demonstrate that all equipment is connected and functioning properly.

(6) Main panel box feeder connection: The main panel box is wired with the grounding system separated from the neutral system (4-wire feeder). The grounding bus in the panel must be connected through a properly sized green colored insulated conductor to the service entrance equipment (meter base) located on or adjacent to the home.

Figure: 10 TAC §80.25(j)(6)

(k) Fuel Gas Piping Systems:

(1) Crossover Connections: All underfloor fuel gas pipe crossover connections shall be accessible and be made with the connectors supplied by the home manufacturer, or, if not available, with flexible connectors listed for exterior use and a listed quick disconnect (Method A), or a shut-off valve (Method B). When shut-off valve is used, it must be installed on the supply side of the gas piping system. The crossover connector must have a capacity rating (BTUH) of at least the total BTUH's of all appliances it serves.

(2) Testing: The fuel gas piping system shall be subjected to an air pressure test of no less than 6 ounces and no more than 8 ounces. While the gas piping system is pressurized with air, the appliance and crossover connections shall be tested for leakage with soapy water or bubble solution. This test is required of the person connecting the gas supply to the home, but may also be performed by the gas utility or supply company.

Figure: 10 TAC §80.25(k)(2)

§80.26. Registration of Stabilizing Components and Systems.

(a) Installers shall use only prefabricated or site built stabilizing components and systems which are:

(1) registered with the Department,

(2) specified by the home manufacturer's DAPIA approved installation instructions, or

(3) specified for one or more homes in a particular area by a Texas licensed engineer or architect.

(b) Before accepting a registration of any prefabricated stabilizing component or system that will be used for more than one home or granting renewal of such, the Department will require the component or system to be certified by an engineer, architect, or independent testing laboratory. The engineer or architect may be licensed in any state. The independent testing laboratory must have at least one engineer or architect licensed in at least one state. The producer or vendor of the component or system must send a request letter to the Department with at least two copies of the certification report. The Department may accept certification reports in electronic formats. The certification report copies must have letter size (8.5 inch by 11 inch) or smaller pages. The producer or vendor must provide written permission to the Department to reproduce the certification report. If the Department accepts the registration of the certification report, the Department shall place a registration stamp on the copies, keep one copy, and return all other stamped copies to the producer or vendor. The registration stamp will include the following information:

(1) the title "Texas Department of Housing and Community Affairs" Manufactured Housing Division;

(2) the phrase "Registered stabilizing component or system"; and

(3) the date of registration.

(c) The Department will maintain a list of stabilizing components and systems that have been registered with the Department for use in Texas and will post a current copy of the list on the Department's website.

(d) A report that certifies a stabilizing component or system shall contain, at the minimum, the following:

(1) the name, address, phone number, facsimile number, and trademark of the agency issuing the certification report or the name, signature, license number, state where licensed, address, phone number, facsimile number, and seal of the engineer or architect;

(2) date of certification report;

(3) the name, address, phone number, and facsimile number of the vendor or producer of the component or system;

(4) drawing or photograph of component or system;

(5) a description of the vendor's or producer's method for identifying the component or system;

(6) at least a 2 inch by 4 inch blank space for the Department registration stamp on each page or the cover page of a bound document;

(7) a unique number or other identification for the certification report;

(8) the initial qualifying test report or information about how the report can be obtained;

(9) a description of the continuing validation system and the time period of the certification;

(10) detailed and specific installation instructions for the component or system, a copy of which that are shipped to each purchaser;

(11) a description of the working load capacity for the component or system. If the component is a ground anchor, the anchor shall be certified by a professional engineer, architect or nationally recognized testing laboratory as to its resistance, based on the maximum

angle of diagonal tie and/or vertical tie loading and angle of anchor installation, and type of soil in which the anchor is to be installed;

(12) a description of all allowable conditions for use of the component or system such as (but not limited to) types of soil, weather exposure, atmospheric environment (rural, industrial, coastal), and characteristics of other associated components; and

(13) a statement that the certifying independent testing laboratory, certifying engineer, or certifying architect certifies the component or system to be in conformance with all applicable standards adopted by the Department. This statement shall be on each page or shall be on the cover sheet of a bound document.

(e) The Department adopts the applicable standards and publications set forth in Chapter 43 of the International Code Council, latest edition of the International Residential Code for materials used to fabricate stabilizing components and systems. The Department adopts the stabilizing component destruction test failure criteria of the FMHCSS (24 CFR, Part 3280) or latest edition of the International Residential Code, Appendix E.

(f) Applicable reports of the following organizations are acceptable as certification reports: National Evaluation Service, Inc.; International Conference of Building Officials (ICBO) Evaluation Service, Inc.; Southern Building Code Congress International (SBCCI) Public Safety Testing and Evaluation Services, Inc.; Building Officials and Code Administrators International (BOCA) Evaluation Reports, Inc.; the International Code Council (ICC); or a successor of any of these organizations.

(g) The Department may deny registration if the certification information:

- (1) is incomplete;
- (2) does not conform to the rules of the Department;
- (3) contradicts the qualifying tests; or
- (4) has contradictory statements.

(h) Conditions that may cause the Board to issue an administrative order that withdraws registration from a stabilizing component or system may include but are not limited to:

- (1) the engineer, architect, or independent testing laboratory withdraws the certification;
- (2) the engineer, architect, or independent testing laboratory improperly certified the component or system;
- (3) a significant characteristic of a device or system has been changed without a revision of the original certification;
- (4) the producer distributes installation instructions that are substantively different from those in the certification or original qualifying tests;
- (5) changes in the law, rules, or standards;
- (6) the continuing validation system for a component has been changed without a revision of the original certification;
- (7) information provided by the original certification is obsolete;
- (8) the Department receives evidence that the component or system often fails to anchor or support the home; or
- (9) the producer fails to provide test results after the Department directs the producer to test the component or system. The test will be performed by a recognized independent testing laboratory

under the observation of a qualified representative or designee of the Department.

(i) Notice of withdrawal of registration of a component or system must be given to the producer and to all licensed installers, retailers, and manufacturers.

(j) The Department's registration of a stabilizing component or system is valid for a period of ten (10) years or for the time period of certification, whichever is less. The registration expires at the end of the shorter period.

(1) If the time period for certification exceeds the ten (10) year registration period, the producer of the stabilizing component or system may apply for a renewal of the registration. The renewal shall be valid for an additional period:

(A) of ten (10) years; or

(B) if the time period of certification expires prior to the end of the ten (10) year period, for a lesser period ending with the expiration of the time period of certification.

(2) All Department approval letters issued prior to November 3, 1998, remain valid for a period of ten (10) years following the original effective date of this section and expire on November 3, 2008, or upon any previously assigned expiration date if that date is earlier.

(k) A registration renewal request must be received from the vendor or producer of the component or system at least ninety (90) calendar days prior to the date the certification or registration expires. The request must supply the information necessary for the Department to issue a registration renewal.

(l) Registered components and systems sold to retailers or installers prior to the expiration of the applicable registration or renewal may be used and installed for a period of not more than ninety (90) calendar days following the date of expiration of their approval, registration, or renewal.

(m) Advertisements and instructions may not express or imply that the component or system has Department approval.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704108

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Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER C. LICENSEES' RESPONSIBILITIES AND REQUIREMENTS

### 10 TAC §§80.30 - 80.38

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the

director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

§80.30. All Licensees' Responsibilities.

(a) A licensee, other than a salesperson, must maintain all required books and records at a location that meets the requirements of §1201.103(a-1) of the Standards Act. All records required by this chapter must be maintained in the licensee's files for a period of not less than six (6) years. Unless stated otherwise, a record of any disclosure to be given shall reflect that it was properly completed, executed, and dated.

(b) A licensee must keep the Department advised in writing on a current basis of any changes in their licensing information and, where required by the Standards Act, give prior written notice.

(c) If a licensee fails to provide any warranty listed in this subsection of the rules, the time limitations associated with the consumer's written notification do not start until the consumer is provided with such required warranty.

(d) A license holder is prohibited from publishing or distributing any form of advertising which is false, deceptive, misleading or not subject to verification.

(e) Any advertisement must comply with applicable federal and state legal requirements, including, but not limited to, the federal Truth in Lending Act and Federal Reserve Regulation Z.

(f) Any advertisement by a retailer, broker, or installer (other than a sign/display advertisement at a licensed location, point of sale literature, or a price tag) must conspicuously disclose the license number of the person who is advertising.

(g) Any advertisement by a salesperson must conspicuously disclose the name and license number of their sponsoring retailer identified on their valid salespersons license.

(h) Where no consumer protection purposes would be served by requiring the license number to be disclosed, the director may grant exceptions to subsections (c) and (d) of this section based on the director's approved format. Exceptions will be posted on the Department's website.

(i) Any licensee's website shall provide a conspicuously placed link on the website's home page to the Department's website.

§80.31. Manufacturers' Responsibilities and Requirements.

(a) A manufacturer shall submit a monthly shipment report to the Department of all manufactured homes produced during the preceding month for shipment to any point in Texas. The report shall contain the following information:

- (1) the complete HUD label number(s);
- (2) the complete serial number(s);
- (3) the license number of the retailer to whom the home is sold and the location to which it is initially shipped; and
- (4) a designation as to single or multiple sections.

(b) The manufacturer's monthly shipment report shall be filed with the Department by the 20th day of the month following the earlier of manufacture of the home and/or shipment. If a manufacturer has no sales or shipments to any person in the State of Texas during any month, the report must be filed stating such fact.

(c) A manufacturer shall use the Manufacturer's Certificate of Origin (MCO) prescribed by the Department set forth in Subchapter I

of this chapter (relating to Forms) for homes sold to retailers in Texas, on the reverse side of which shall be the data plate.

(d) A manufacturer shall supply to the Department current and revised copies of approved installation manuals as required by §80.20 of this title (relating to Requirements for Manufacturer's Designs and Installation Instructions).

(e) The term of a required warranty does not begin to run until a warranty that complies with the Standards Act is actually delivered.

§80.32. Retailers' Responsibilities and Requirements.

(a) A retailer shall retain as a record of each sale a file for that sale containing a completed checklist in the form, together with copies of all applicable documents specified therein.

(b) A retailer shall timely provide each consumer who acquires a manufactured home by sale, exchange, or lease purchase the applicable warranty or warranties specified in the Standards Act and any warranty regarding the home itself shall specify whether the warranty includes cosmetic items or not and, if it does include them, whether there are any limitations or special requirements, such as a walk-through punch lists, excluded items, or the like.

(c) For each manufactured home taken into a retailer's inventory, a retailer shall maintain a copy of either a completed and timely submitted application for a statement of ownership and location to reflect the home as inventory or, once such a statement of ownership and location has been issued and received, a copy of that statement of ownership and location.

(d) For each home altered or rebuilt from salvage a retailer shall retain the documentation required for a rebuilder.

(e) For homes manufactured on or after September 1, 1997, a manufactured housing license holder shall not contract for sale of any home installed in a wind zone other than that allowed on the data plate.

(f) A retailer must provide their company name, license number, and contact information on any sales agreement.

(g) In a joint purchase, one consumer's signature is sufficient on any notice or disclosure statement as long as the consumer is on the sales documents.

(h) If a retailer relies on a third party, such as a title company or closing attorney, to file with the Department the required forms necessary to enable the Department to issue a Statement of Ownership and Location to a consumer, the retailer must provide an instruction letter to that third party, advising them of their responsibilities to make such filings and the required timeframes therefore. This does not relieve the retailer from responsibility. The retailer must retain with their sale records a copy of that instruction letter and all documentation provided to such third party to enable them to make such filings. This optional form is available in Subchapter I of this chapter (relating to Forms).

(i) On a new manufactured home and on any used manufactured home where the sale, exchange or lease-purchase includes installation, the retailer must specify in the applicable contract or an accompanying written disclosure the intended date by which installation will be complete, the conditions under which that intended date is subject to change, and a designated person to contact for the current status as to the intended date for completion of installation. For new manufactured homes, the retailer is responsible for ensuring that a licensed installer warrants the proper installation of the home.

(j) If any goods or services being provided by a retailer in connection with the sale and/or installation of a manufactured home, the retailer must disclose, in writing, the goods and/or services to be provided and a good faith estimate as to when they will be provided.

(k) If any goods with a retail value of more than \$250 are to be provided in connection with the sale of a manufactured home and they are not specified on the data plate for the home, the retailer must describe them in the retail installment contract, purchase memorandum, or other sale document in sufficient detail to enable a third party to provide them under the responsibility of the retailer's surety bond should the retailer fail to provide them as agreed.

(l) A retailer accepting a deposit must give the consumer a written statement setting forth:

- (1) the amount of such deposit;
- (2) a statement of any requirements to obtain or limitations on any such refund; and
- (3) the name and business address of the person receiving such deposit.

(m) A retailer may not represent to a consumer that is purchasing a manufactured home with interim financing that the consumer will qualify for permanent financing if the retailer has any reason to believe that the consumer will not qualify for such permanent financing.

(n) A retailer may not increase the advertised price at which a manufactured home is to be sold based on the consumer's decision to make the purchase with or without financing provided by or arranged through the retailer.

(o) A retailer may not request or accept any document that is executed in blank or allow any alteration to a completed document without the consumer's initialing and dating such changes to indicate agreement to them. Where information is not available, a statement of that fact (e.g., TBD - to be determined, not available, N/A, not applicable, or the like) may be entered in the blank. A consumer must be provided with copies of all documents they execute.

(p) A retailer may not knowingly accept or issue any check or other form of payment appearing on its face to be a *bona fide* payment but known not to represent good funds.

(q) A retailer may not negotiate or offer a deposit refund of less than is required by the Act. However, a retailer may, by written agreement with the consumer, retain the amount of the deposit used to pay legitimate third party costs actually incurred, such as credit report fees or courier fees.

(r) In order to comply with the provisions of §1201.107 of the Standards Act, a retailer or broker must:

(1) have a current, in effect surety bond issued in the most recent form promulgated by the Department; and

(2) the applicable sales agreement must identify the surety bond that applies to the transaction and contain the following statement: "The above-described surety bond applies to this transaction in the following manner: The bond is issued to the Texas Manufactured Homeowners' Recovery Trust Fund (the "Fund"), a fund described in the Texas Manufactured Housing Standards Act (Tex. Occ. Code, Chapter 1201) and administered by the Director. If the Fund makes a payment to a consumer, the Fund will seek to recover under the surety bond. The obligation of the Fund to compensate a consumer for damages subject to reimbursement by the Fund is independent of the Fund's right or ability to recover from the above-described surety bond, but recoveries on surety bonds are an important part of the Fund's ability to maintain sufficient assets to compensate consumers. There can be no assurance that the Fund will have sufficient assets to compensate a consumer for a covered claim. Assuming it has sufficient assets to compensate a consumer for a covered claim, the liability of the Fund is limited to actual damages, not to exceed \$35,000."

(s) A retailer shall maintain on a current basis a separate file for each salesperson sponsored by that retailer reflecting:

(1) that they are licensed in accordance with the Standards Act;

(2) the date of the initial licensing class that they attended and a copy of their certificate of completion;

(3) evidence of the successful completion of any required continuing education classes that they attended; and

(4) a copy of any written notice to the Department that sponsorship was terminated and the effective date thereof.

(t) At each licensed location, including each branch location, a retailer shall display their current license for that location and the current license of each salesperson who works from that location.

(u) At each licensed location, including each branch location, a retailer shall conspicuously display the Consumer Protection Information sign as set forth in Subchapter I of this chapter.

(v) Auction of Manufactured Housing to Texas Consumers.

(1) A person selling more than one home to one or more consumers through an auction in a twelve (12) month period must be licensed as a retailer, each individual acting as their agent must be licensed as a salesperson, and each specific location at which an auction is held must be licensed and bonded in accordance with the Standards Act.

(2) Acting as an auctioneer may be subject to the Texas Auctioneer Act, Occupations Code, Chapter 1802.

(3) The retailer must notify this Department in writing at least thirty (30) calendar days prior to the auction with such notice to contain the date, time, and physical address and location of a proposed auction or, if they recur on a scheduled basis, of the schedule.

(w) The written warranty that the used manufactured home is habitable as per §1201.455 of the Standards Act, shall have been timely delivered if given to the homeowner at or prior to possession or at the time the applicable sales agreement is signed.

(x) The written manufacturer's new home construction warranty per §1201.351 of the Standards Act, shall be timely delivered if given to the homeowner at or prior to the time of initial installation at the consumer's home site.

#### §80.33. Installers' Responsibilities and Requirements.

(a) If the retailer subcontracts installation to another licensed installer, their respective responsibilities are as set forth in the Standards Act.

(b) For used manufactured homes, the person contracting with the consumer for the installation of the home is the installer and must warrant the proper installation of the home. If the contracting installer subcontracts with an independent licensed installer, then the subcontractor is jointly and severally liable for that portion of the installation that the subcontractor performed.

(c) A person contracting directly with the consumer for only the transportation of a manufactured home to its site is not deemed by virtue of being the transporter to also be the installer.

(d) The contracting installer is fully responsible for the complete installation in accordance with all applicable requirements set forth in this chapter even though the installer may subcontract certain installation functions to independent contractors pursuant to §1201.102(b) of the Standards Act. It is unlawful for a subcontractor who is acting as an agent for a licensed installer to advertise and/or

offer installation services to any person unless the licensed installer's name and license number appear conspicuously in the advertisement.

(e) A person contracting for the installation of a manufactured home must specify in the applicable contract or an accompanying written disclosure the intended date by which installation will be complete, the conditions under which that intended date is subject to change, and a designated person to contact for the current status as to the intended date for completion of installation.

(f) An installer shall provide the Department with a list of all subcontractors approved to work under the installer's license number.

(g) For each installation completed, the contracting installer must complete a Notice of Installation and submit the original, signed form with the required fee to the Department no later than ten (10) business days after installation is completed. If an installer submits multiple installation reports at one time, a single payment for the combined fees may be submitted.

(h) An installer must obtain installation decals from the Department. On each home installed, the installer shall affix a Department issued installation decal. Decals shall be order from the Department using the order form prescribed in Subchapter I of this chapter (relating to Forms).

(i) The completed Notice of Installation may, within the time frames specified in subsection (g) of this section be submitted with an application for Statement of Ownership and Location but is not a requirement to obtain a Statement of Ownership and Location. Copies must be labeled as such. The licensed installer who is listed on a Notice of Installation is presumed to be the installer primarily responsible for the installation and the person to whom any warranty orders, notices of inspection, or other communications from the Department regarding the installation shall be directed.

(j) Electrical, fuel, mechanical, and plumbing system crossover connections for multi-section homes, and completion of drain lines underneath all homes in accordance with the requirements of this chapter and installation of steps or legally compliant ramps to any exterior door that will be 12 inches or more above ground level (or, if someone else is providing the steps, such as in a situation where a deck is being built, insuring that complying steps are actually provided) are installer responsibilities and cannot be excluded by wording of the installation contract. The installation of air conditioning at the home site must be performed by a licensed air conditioning contractor. The installation and ventilation of skirting or other material that encloses the crawl space underneath a manufactured home is an installer responsibility, if it is part of the sales or installation contract.

(k) A checklist must be maintained in the files. The checklist must consist of the following:

(1) the HUD label number or Texas seal number and the serial number;

(2) the installation decal number;

(3) verification of the spoil condition(s) at the installation site;

(4) if installed on piers or pads, verification of the calculation of pier spacing; and

(5) a list of each approved component or device used in the installation.

(l) Each installer shall maintain the following books and records for each installation:

(1) verification that either the 163 disclosure or a site preparation required was timely delivered to a consumer by the licensee;

(2) a copy of each installation warranty provided to a consumer with evidence that the warranty was timely delivered to the consumer;

(3) if the home is to be installed on a site that has evidence of ponding, run-off, or uncompacted soil, a signed form from the consumer, acknowledging the condition and accepting the risks, such form to be as set forth in Subchapter I of this chapter;

(4) documentation of the determination of the weight bearing capacity of the soil;

(5) a list of the components used. If reconditioned components are used the identifying numbers must be legible;

(6) if installed to manufacturer's instructions, a copy of those instructions, as in effect at the time of installation (one copy on-site is sufficient; a separate copy does not need to be maintained for each installation);

(7) if installed to engineer-approved plans (other than manufacturer's instructions or state generic) a copy of the actual plans, showing the Texas engineer's stamp;

(8) a copy of any agreement with another party to obtain or provide some or all of the installation services;

(9) a list of all unlicensed individuals who provided installation services under the installer's license, indicating each installation on which they worked; and

(10) a record showing that they have affixed a Department-issued installation decal to each installation they report that they performed, listing the decal number of each.

(m) An installer shall conspicuously disclose their license number on all advertisements and contracts for installation services.

#### §80.34. Brokers' Responsibilities and Requirements.

(a) For each transaction where a broker is engaged to provide services, a broker shall retain the disclosure statement set forth in Subchapter I of this chapter (relating to Forms).

(b) For each home sold by a consumer in a brokered sale, the broker shall retain a file for that sale with copies of all required warranties and disclosures, other than a habitability, that would have been given if the sale was through a retailer.

#### §80.35. Salesperson's Responsibilities and Requirements.

(a) A salesperson may not act in any capacity beyond the scope of a salesperson unless they are legally licensed to do so.

(b) A salesperson may not collect any monies in connection with a manufactured home transaction except in the name of the sponsoring retailer.

#### §80.36. Rebuilders' Responsibilities and Requirements.

(a) Any home which has sustained sufficient damage to be declared salvage as defined in §1201.461 of the Standards Act, may be rebuilt/repared for purposes of issuance of a manufactured Statement of Ownership and Location at the option of the Department after inspection in accordance with Department procedures. Notification in writing to the Department at its Austin headquarter's office shall be required before rebuilding/repair begins.

(b) The rebuilder must:

(1) notify the Department in writing ten (10) business days before rebuilding (or monthly for continuous activity) and provide the following, if available:

(A) HUD or Texas Seal number;

(B) data plate and comfort cooling certificate information (applicable wind and roof load zones, manufacturer's name and address, home model, list of appliance models, home production date, thermal zones, transmission coefficients, furnace certification temperatures, and duct capacity for cooling);

(C) copy of salvage declaration report if salvaged by an insurance company;

(D) description of damage;

(E) description of cause of damage (water, wind, impact, fire, etc.); and

(F) location of home during rebuilding.

(2) provide a plan for rebuilding, sealed by a licensed professional engineer, that contains the following:

(A) drawings and specifications that describe the rebuilding;

(B) if more than one home is rebuilt in any one (1) month period, then a quality assurance manual that describes the following:

(i) system testing;

(ii) inspection process of cavities before concealment; and

(iii) record keeping.

(C) list of new parts and appliances;

(D) list of reused or salvaged parts and appliances; and

(E) rebuilder's data plate (if applicable).

(3) notify the Department when concealed cavities will be exposed for Department inspectors;

(4) remove damaged material and equipment;

(5) add new or used materials and equipment;

(6) repair all defects; and

(7) repair and test all systems.

(c) The Department may schedule inspections of the home during the rebuilding process.

(d) A manufactured home which has not sustained sufficient damage to be declared salvage may be refurbished to its original structural configuration so that it is habitable as defined by §1201.453 of the Standards Act.

#### §80.37. Correction Requirements.

(a) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the nature of the complaint indicates an imminent safety hazard or serious defect.

(b) Except as provided in subsection (a) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with their respective written warranty within a reasonable period of time. A reasonable period of time is deemed to be not more than thirty (30) calendar days following receipt of the consumer's written notification unless there is good cause requiring more time. The consumer's written notification must be given within the one (1) year warranty period for new homes and for used homes within sixty-five (65) calendar days after the date of the sale or installation, whichever is later.

(c) The manufacturer, installer, and retailer shall make available for review by Department personnel, records relating to their respective warranty responsibilities, to assure that warranty work has been accomplished and that warranty work has been done in accordance with design or standards criteria and properly completed.

#### §80.38. Right to Advance Copy of Certain Documents.

(a) A consumer may modify or waive the right to rescind the deadlines for disclosures before the execution of the contract if the consumer determines that the purchase transaction is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the retailer a dated written statement that describes the emergency, specifically modifies or waives the notice periods, and bears the signature of all the consumers entitled to the disclosures and right of rescission. Printed forms for this purpose are prohibited, except as set forth in Subchapter I of this chapter (relating to Forms).

(b) Printed forms may be used to the rights as provided for in §1201.164 of the Standards Act only if:

(1) The Governor of the State of Texas has declared an emergency to exist in the location where the home is to be located;

(2) The basic form set forth in Subchapter I of this chapter is used; and

(3) The Director has reviewed and approved the language used to describe the specific declared emergency.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704109

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Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## **SUBCHAPTER E. LICENSING**

### **10 TAC §80.40, §80.41**

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

#### §80.40. Security and Insurance Requirements.

(a) For purposes of meeting the security requirements of §1201.105 of the Standards Act, "other security" means a deposit in a state or federally chartered bank or savings and loan association. If other security is posted, the other security must be maintained in or by a banking institution located in this state subject to a control agreement in the promulgated set forth in Subchapter I of this chapter (relating to



Forms). Such deposits are hereinafter referred to as security. If such security is reduced by a claim, the license holder shall, within twenty (20) calendar days, make up the deficit as required by §1201.109(c) of the Standards Act. No advance notice is required by the Department to the license holder, but the Department shall verify of the deposit.

(b) Any other security provided for compliance with §1201.105 of the Standards Act, shall remain in place and subject to a control agreement in favor of the Department for two (2) years after the person ceases doing business as a manufacturer, retailer, broker, rebuilder, or installer, or until such later time as the director may determine that no claims exist against the other security. The Director may consent to the substitution of a bond or a different qualifying deposit for other security provided that in the event a bond is filed to replace the assigned security, the initial effective date of the bond is the same or prior to the date of the assignment of security.

(c) If a required bond is canceled during the license period, the license shall be automatically terminated on the date bond coverage ceases.

(d) To be exempt from the additional security as required by §1201.106(b) of the Standards Act, a manufacturer who does not have a manufacturing plant in this state must have a *bona fide* service facility.

(1) The manufacturer shall provide the Department with the name, address and phone number of the service facility, conspicuous notice of which shall be provided to each Texas retailer who purchases homes from the manufacturer.

(2) The service facility shall be capable of compliance with the provisions of Sub-part I of the Manufactured Housing Improvement Act (latest edition) and capable of providing warranty service within the reasonable time requirements set by the Department in §80.73 of this title (relating to Procedures for Handling Consumer Complaints), and shall be subject to periodic review and inspection by Department personnel.

(3) If the Department determines that the requirements of paragraph (2) of this subsection have not been met, notice must be sent of that determination and of the requirement of an additional bond amount.

(4) Unless additional security is provided as required by the Standards Act, all out of state manufacturers must disclose their in-state service facility on each renewal of their license.

(e) Each installer shall maintain public liability insurance coverage, including completed operations coverage in an amount of not less than \$300,000 for bodily injury each occurrence and property damage insurance in an amount of not less than \$100,000 each occurrence. A combined single limit of \$300,000 will be considered to be in compliance with this section. If the applicant will be engaged in the transportation of manufactured housing incidental to the installation, the applicant must also have motor vehicle liability insurance coverage in an amount of not less than \$250,000 bodily injury each person, \$500,000 bodily injury each occurrence, \$100,000 property damage each occurrence. A combined single limit of \$500,000 will be considered to be in compliance with this section. Cargo insurance on each home or transportable section of not less than \$50,000 per towing motor vehicle is required.

(1) At the time of initial license and on renewal, a certificate of insurance must be filed with the Department by the insurance carrier or its authorized agent certifying the kind, type and amount of insurance coverage and which provides for thirty (30) calendar days notice of cancellation. If the applicant does not provide proof of the required motor vehicle liability insurance and the cargo coverage, the applicant must sign an affidavit that the applicant will not engage in

any transportation of manufactured housing. If the applicant transports only his/her own property, and furnishes the Department with an affidavit attesting to that fact, cargo coverage is not required.

(2) An installer, also licensed as a retailer, may satisfy the insurance requirements by filing a certificate of insurance which shows that the license holder has motor vehicle-garage liability coverage including completed operations, and has dealer's physical damage (open lot) including transit insurance coverage in amounts not less than those set forth in subsection (e) of this section.

(3) If the required insurance coverage expires or is canceled, and proof of replacement coverage is not received prior to the expiration date or date of cancellation, the installer's license is automatically terminated until the licensee provides a new valid insurance.

(f) In order for the Board to direct the Director to stop accepting bonds issued by a surety for reasons outlined in §1201.105(c) of the Standards Act, the Department experiences significant problems if:

(1) the surety fails on three (3) or more occasions to make the required reimbursement payment within thirty (30) calendar days from the date of notice from the director that a consumer claim has been paid; or

(2) is more than sixty (60) calendar days late in making a required reimbursement payment.

(g) If the director stops accepting bonds issued by a surety for reasons set forth in subsection (f) of this section, all licensees who are bonded by the affected surety must supply the Department with a new valid bond when they renew their license. If a licensee fails to supply the Department with a new valid bond when they renew their license, their license is automatically suspended until the licensee provides a new valid bond.

#### §80.41. License Requirements.

(a) General License Requirements. In order to apply to obtain a license, the promulgated form of application for such license must be fully completed and executed and submitted to the Department, accompanied by the required fee, required security, evidence of any required insurance, and all other required supporting documentation. The Department may request any reasonably related additional information or documentation to clarify or support any application.

(1) Additional provisions applicable to salespersons.

(A) A salesperson is an agent of their sponsoring retailer or broker. The sponsoring retailer or broker is liable and responsible for the acts or omissions of a salesperson in connection with any activity subject to the Standards Act or this Chapter. It is a violation of the Standards Act and this chapter for a retailer or broker of manufactured housing to employ a salesperson who is not licensed with the Department or permit them to conduct business subject to the Standards Act on their behalf.

(B) If a salesperson's sponsoring retailer or broker is no longer licensed, that salesperson's ability to act and a salesperson is automatically terminated until such time as he or she is acting under a duly licensed sponsoring retailer or broker and such sponsorship is on record with the Department.

(C) A salesperson shall surrender his or her license to the Department within ten (10) calendar days of termination from his or her sponsoring retailer.

(D) A salesperson's sponsoring retailer or broker shall be issued a license card by the Department containing effective date and license number and name and license number of the sponsor. A

salesperson shall be required to present a copy of a valid license card upon request.

(2) Additional provisions applicable to installers.

(A) A probationary installer's license shall become a full installer's license as outlined in §1201.104(f) of the Standards Act when the Department inspects a minimum of five (5) manufactured home installations and found not to have any identified installation violations.

(B) It is the responsibility of an installer who is still on probationary status to notify the Department of each installation performed promptly. As used in this Section, "promptly" means sufficiently early to enable the home to be inspected prior to any skirting being installed, in any event within three business days following the date of completion of the installation.

(C) It is the responsibility of the Department's field office to notify the Department's licensing section when a probationary installer's license is eligible for upgrade to a full installer's license.

(b) Applicable License Holder Ownership Changes.

(1) A license holder shall not change the location of a licensed business unless the license holder first files with the Department:

(A) a written notification of the address of the new location;

(B) an endorsement to the bond reflecting the change of location; and

(C) the original license.

(2) The change of location is not effective until all requirements are received by the Department.

(3) For a change in ownership of less than fifty percent (50%) of the licensed business entity, no new license is required provided that the existing bond or other security continues in effect. However, the current Articles of Incorporation or Assumed Name Certificate must accompany the request.

(4) For a change in ownership of fifty percent (50%) or more, the license holder must file with the Department, along with the appropriate fee and Articles of Incorporation or Assumed Name Certificate:

(A) a license addendum by the purchaser providing information as may be required by the Department; and

(B) certification by the surety that the bond for the licensed business entity continues in effect after the change in ownership; or

(C) an application for a new license along with a new bond or other security and proof that the education requirements of §1201.113 of the Standards Act, have been met.

(c) Education.

(1) The Standards Act requirement for an initial 20 hour course of instruction in the law, including instruction in consumer protection regulations, shall be offered quarterly by the Department. Other instruction providers may offer the course, if they complete and submit the required application, together with the required fee and all required supporting documentation, including any additional documentation requested by the Department, and, based on the recommendation of the Director, they are approved by the Board. Subject to limitations on Department resources, the Department will make special licensing classes available upon written request.

(2) The test to be administered in connection with the course will consist of a representative selection of questions from an approved set of questions prepared by the Director. The test will be open-book. A score of 70% correct is required to pass the test.

(3) For initial licensing of a salesperson, if the salesperson does not attend and successfully complete the next initial licensing class provided by the Department, the license will automatically be terminated until the salesperson has attended and successfully completed that class.

(4) The 20 hour course of instruction must include the following matters in its curriculum.

(A) the Standards Act and this Chapter;

(B) Texas Finance Code, Chapters 347 and 156;

(C) Texas Transportation Code requirements relating to moving manufactured homes;

(D) Federal Truth-in-Lending Act and Regulation Z;

(E) Installations;

(F) Consumer Complaints;

(G) Enforcement;

(H) Complaint Resolution Process; and

(I) The FMHCSS.

(5) The primary administrator for each approved training program will be notified by the Department of changes to the Law and Rules and the date that the changes will become effective.

(6) The Department may revoke course approval for failure to comply with the standards or procedures set forth in this paragraph or any conditions of approval. Unless the approval provides otherwise or is revoked for cause, an approval is valid for two (2) years.

(d) Continuing Education.

(1) Continuing education courses must include any revisions to the Code within the preceding two years and the Department's current complaint resolution process and may also include any of the following:

(A) installation requirements;

(B) manufactured home financing;

(C) operation of manufactured home parks and communities; or

(D) other subjects determined by the Department to relate directly to the lawful operation of a business subject to the Code.

(2) Acceptable evidence that the requirements of §1201.113(b) of the Standards Act have been satisfied would be a certificate, letter, or similar statement provided by the approved education provider indicating that the course was timely completed. Such evidence may be submitted by fax, mail, e-mail, or in person. Attendance of a continuing education course in person is a requirement.

(3) For license renewal, evidence of any required attendance, with reference to license number, must be received by the Department before a license may be renewed.

(4) Approval of courses and providers. In order to be considered for approval by the Board to provide continuing education courses a party wishing to be considered for such approval must submit, for each course for which approval is sought, a letter application, accompanied by the nonrefundable processing fee, and the following:

(A) A narrative overview of the course, describing subject matter to be covered;

(B) Brief biographies, including credentials of each instructor demonstrating in depth knowledge of the subject matter to be taught;

(C) A copy of any course materials to be used. If the course materials are deemed to be proprietary they should be placed in a separate envelope, marked confidential, and accompanied by a written statement as to why they should not be treated as open records. There is no assurance that such materials will ultimately be accorded any exemption from disclosure under the Open Records provisions of the Government Code;

(D) A schedule of any fees to be charged for the course;

(E) If attendance at the course is limited to any particular group, a description of the limitation;

(F) As such information becomes available, an indication as to the locations, times, and dates for offerings; and

(G) Such other information as the Department may require.

(5) Once the Department determines that a request for approval is complete, that request will be placed on the next regularly scheduled meeting of the Board for consideration. The Department will provide the board with a written recommendation on each such request. The staff will advise the applicant of the board's action within ten (10) business days of the date of the board meeting, including a written statement as to any limitations, conditions, or other requirements imposed.

(A) Approvals shall be for a period not to exceed two years. The Department may, at no cost, attend or send a representative to attend any approved course to determine that the course is being taught in accordance with the terms of approval.

(B) The Department may revoke or suspend approval of a course if the Department determines that the course is not being taught in accordance with the terms of approval or that the course is not being administered in accordance with the law or these rules. Any action to revoke or suspend such an approval is a contested matter under Chapter 2001, Government Code, and the party against whom revocation or suspension is sought may make a written request for a hearing before an Administrative Law Judge. If no such hearing is requested within thirty (30) calendar days after receipt of notice from the Department, the Department order of suspension or revocation shall become final.

(e) License Application and Renewal.

(1) Initial Application Processing.

(A) It is the policy of the Department to issue the license within seven (7) business days after receipt of all required information and the following conditions have been met:

(i) all required forms are properly executed; and

(ii) all requirements of applicable statutes and this Chapter have been met.

(B) License applications and accompanying documents found to be incomplete or not properly executed shall be returned to the applicant with an explanation of the specific reason and what information is required to complete license.

(C) Upon request, the Department will disclose the license number assigned and the effective date for a license that has been approved but not yet delivered to the license holder.

(2) License Renewal Requirements. It is the responsibility of a license holder to renew the license prior to its expiration date.

(A) The Department will mail each license holder a renewal notice and application for renewal at least forty-five (45) calendar days prior to the date on which the current license expires. Notice will be mailed to the last known address indicated in Department records. Failure by the Department to send this notice does not relieve the licensee of the legal responsibility to apply timely for any necessary renewal.

(B) In order to prevent the expiration and lapse of a license, a complete application for license renewal must be received by the Department prior to the date on which the current license expires.

(C) If an application for license renewal is received by the Department after the date on which the current license expires, the license will not be issued without the required late fees identified in §1201.116(d) and (e) of the Standards Act.

(3) Payment of license fees.

(A) All required fees must be paid in order to obtain a valid license, including a renewal license, from the Department.

(B) Any license issued by the Department is void and of no effect if based upon a check or other form of payment that is later returned for insufficient funds, closed account, or other reason, regardless of whether the Department notifies the applicant of the insufficiency of payment or the invalidity of the license.

(C) It is the applicant's responsibility to ensure that all licensing fees are paid in valid U.S. funds.

(f) License Application or Renewal Denial.

(1) In the evaluation of an applicant for a license other than a salesperson's license, the Director shall consider whether the applicant or any related person involved with the applicant has previously:

(A) been found in a final order to have participated in one or more violations of the Standards Act that served as grounds for the suspension or revocation of a license;

(B) entered into two agreed final orders of the same type of violation within the proceeding two years;

(C) been found to have engaged in activity subject to the Standards Act without possessing the required license;

(D) caused the trust fund to incur unreimbursed payments or claims;

(E) failed to abide by the terms of a final order or agreed final order, including the payment of any assessed administrative penalties; or

(F) had any state license revoked for violations of a law or rule.

(2) If any of the preceding factors is present with respect to the applicant or any related person involved with the applicant, the director will further determine:

(A) whether all appropriate corrective action has been taken;

(B) whether the applicant has adopted policies and procedures or taken other appropriate measures to prevent recurrences; and

(C) whether additional conditions or limitations on the license would be appropriate.

(3) In determining whether an applicant should be issued a license if that applicant states in his/her application for said license that he/she has a record of criminal convictions within five (5) years preceding the date of the application, the Director shall consider the factors set out in Texas Occupations Code, §53.022 :

(A) the nature and seriousness of the crime;

(B) the relationship of the crime to the intended manufactured housing business activity;

(C) the extent to which a license holder might engage in further criminal activity of the same or similar type as that in which the applicant previously had been involved;

(D) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the functions and responsibilities of the license holder's occupation or industry; and

(E) whether the offenses were defined as crimes of moral turpitude by statute or common law, from Class A misdemeanors to first, second, and third degree felonies carrying fines and/or imprisonment or both. Special emphasis shall be given to the crimes of robbery, burglary, theft, embezzlement, sexual assault, and conversion.

(4) In addition to the factors that may be considered in paragraph (3) of this subsection, the Department, in determining the present fitness of a person who has been convicted of a crime, may consider the following:

(A) the extended nature of the person's past criminal activity;

(B) the age of the person at the time of the commission of the crime;

(C) the amount of time that has elapsed since the person's last criminal conviction;

(D) the conduct and work activity of the person prior to and following the criminal conviction; and

(E) evidence of the person's rehabilitation or attempted rehabilitation effort while incarcerated or following release.

(5) The applicant shall furnish proof in any form, as may be required by the Department, that he/she has maintained a record of steady employment and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant was convicted.

(6) If the Department suspends or revokes a valid license, or denies a person a license or the opportunity to be considered for a license in accordance with this subsection because of the person's prior conviction of a crime and the relationship of the crime to the license, the Department shall:

(A) notify the person in writing stating reasons for the suspension, revocation, denial, or disqualification; and

(B) offer the person the opportunity for a hearing on the record. If the person does not request a hearing on the matter within thirty (30) calendar days from receipt of the Department's decision, the suspension, revocation, or denial becomes final.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704110

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Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

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## SUBCHAPTER F. ENFORCEMENT

### 10 TAC §§80.70 - 80.73

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

#### §80.70. Enforcement.

(a) A licensee shall not obstruct or hinder any inspection, investigation, or enforcement efforts being carried out by the Department.

(b) Subpoenas or any other order issued by the Director may be served by any person acting on behalf of the Director.

#### §80.71. Rules for Hearings.

(a) Unless otherwise expressly set forth in the Standards Act or this chapter, all hearings shall be held and conducted pursuant to the applicable provisions of Government Code, Chapter 2001.

(b) Any party to a hearing may request that a record of the hearing be made and transcribed by an independent court reporter, other than an employee of the Department. Such request must be made not later than seven (7) calendar days prior to the hearing. The additional cost and expense of the independent court reporter may be assessed against the party making the request.

(c) Notice of a hearing shall specify all state and federal laws, rules, and regulations, including but not limited to, if applicable, HUD regulations, that the Department believes are relevant to any issue to be involved in the hearing.

(d) If, after receiving notice of a hearing, a party fails to appear in person or by representative on the day and time set for hearing or fails to appear by telephone in accordance with Government Code, Chapter 2001, also known as the Administrative Procedures Act, the hearing may proceed in that party's absence and a proposal for decision may be entered by default, accepting all facts and conclusions of law as deemed admitted.

(e) Pursuant to the Administrative Procedures Act, each party has the right to file exceptions to the Proposal for Decision and present a brief with respect to the exceptions. All exceptions must be filed with the Department within ten (10) business days of the Proposal for Decision, with replies to be filed ten (10) business days after the filing of exceptions.

(f) When an administrative hearing is held for any matter in which the Department seeks to take action against a licensee for violating the Standards Act or these rules, whether such action is an action

to assess administrative penalties, to require corrective action, to require cessation of improper activities, to suspend or revoke a license, or any combination thereof, the Department shall assess the costs of the proceeding against any party that fails to appear at a duly noticed administrative hearing. The costs assessed shall be the greater of \$100 or the actual costs charged to the Department by the State Office of Administrative Hearings, the Office of the Attorney General, any court reporter, or any other third party providing services in connection with such hearing.

(g) The Department will seek the recovery of its costs from any party against whom it initiates an action if that action results in the entry of a final order taking any administrative action against that party, including the assessment of administrative penalties, requiring corrective action, requiring cessation of improper activities, suspension or revocation of a license, or any combination thereof.

#### §80.72. Sanctions and Penalties.

(a) In accordance with the provisions of §1201.605 of the Standards Act, the Director may assess and enforce penalties and sanctions against a person who violates any applicable law, rule, regulation, or administrative order of the Department.

(b) The determination of any penalties or other sanctions to be assessed shall be based on the consideration of statutory factors and whether the person against whom such penalties and/or sanctions are to be assessed has timely and in good faith taken the necessary steps to achieve, to the extent feasible, full compliance with all applicable state and federal laws, rules, and regulations and taken appropriate measures to prevent future violations.

(c) When a licensee first receives written notification of a claim for warranty service, the licensee must respond promptly to the request. A failure to do so shall constitute a violation of this chapter. Immediate corrective action is required if the matter involves an imminent safety hazard.

(d) If, after reasonable investigation, a licensee disputes whether warranty service is required and the licensee is unable to resolve the matter by agreement with the consumer, the licensee may request that the Department perform an inspection of the home. The running of the time to respond to the request for warranty service will be suspended from the time the request for inspection is received until the Department performs the inspection and issues its findings. When the Department concludes its review it will work with the affected licensee(s) and consumer(s) to agree upon a reasonable time to address its findings. In the event the parties cannot agree on a reasonable time, the Director shall issue a revised order assigning a time for compliance. An agreed or ordered time to respond to a request for warranty service may be extended by the Director in response to a request setting forth good cause for the extension. Any such request must be made to the Director prior to the expiration of the allotted time for response. Requests may be made by U.S. First Class mail, by FAX, or by e-mail, or, if followed with written confirmation sent U.S. First Class mail, or by telephone.

(e) Any and all penalties are IN ADDITION to full compliance with the Standards Act and Rules (i.e., full, prompt corrective action, restitution, or whatever else the Standards Act and rules would have required in the first place). Failure to provide such compliance on a timely basis, as specified in the applicable order, will be deemed to be a violation of the order and serve as a basis for pursuing additional administrative action, including the assessing of additional penalties and the pursuit of suspension or revocation of licenses.

(f) The Department offers, at no charge, alternative dispute resolution as an inexpensive and informal way of attempting to resolve any claim or dispute. Depending on the parties, this may involve infor-

mal meetings or non-binding mediation. Alternative dispute resolution is available upon request. In the event that a disputed matter cannot be resolved in this manner, the Department reserves the right to pursue all other lawful means of resolution including, but not limited to, pursuit of administrative remedies.

#### §80.73. Procedures for Handling Consumer Complaints.

(a) A complaint may be initiated by a consumer or by the Department. Unless the Department determines that it is appropriate to proceed in another manner a copy of the complaint will be provided to each person involved. The letter shall request a written response within ten (10) calendar days unless the Department determines that a longer or shorter period is warranted.

(1) If the consumer has not previously notified the manufacturer, retailer or installer, the Department will forward the written notification to the manufacturer, retailer, or installer. This will constitute written notice of a request for warranty service.

(2) If the consumer has previously provided written notification to the manufacturer, retailer or installer of the need for warranty service or repairs, but believes such has not been completed in a satisfactory manner, the Department shall perform a home inspection, if required. If a home inspection is performed and violations are found, the Department will assign responsibilities for repair, and notify the manufacturer, retailer, installer, and consumer of their responsibilities to complete such warranty or service repair in accordance with §1201.356(c) of the Standards Act.

(b) The Department shall make a consumer complaint home inspection upon request.

(1) Consumer Request. The consumer may, at any time, request that the Department perform a consumer complaint home inspection. A written complaint regarding failure to provide warranty work is deemed to be a request for a consumer complaint inspection. No written complaint form is required if a possible imminent safety hazard exists.

(2) Industry Request. Manufacturer or retailer requests for a consumer complaint home inspection must be signed, shall identify the home by HUD label and serial number(s), and shall provide the necessary information for the Department to contact the consumer and determine the physical location of the home. The manufacturer or retailer may request a consumer complaint home inspection if the manufacturer or retailer:

(A) believes that the consumer's complaints are not covered by the respective written warranty, or implied warranties;

(B) believes that the warranty service was previously properly provided; or

(C) has a dispute as to the respective responsibilities pursuant to the warranties.

(3) The Department will perform the inspection within thirty (30) calendar days from the date an inspection is requested.

(A) The consumer, manufacturer, retailer, and installer, as applicable, shall be notified of the scheduled inspection.

(B) The person conducting the inspection shall inspect all matters (relating to the home and/or the installation of the home) set forth in the complaint and any other items raised at the inspection.

(C) The person conducting the inspection will issue a report of inspection, completed to reflect the findings of the inspection.

(c) The retailer, installer, or manufacturer shall take immediate corrective action when notification is received from a consumer and the

nature of the complaint indicates an imminent safety hazard or serious defect.

(d) Except as provided in subsection (c) of this section, manufacturers, retailers, and installers shall perform their obligations in accordance with any assigned order for corrective action pursuant to §1201.356(c) of the Standards Act within a reasonable period of time. A reasonable period of time is deemed to be thirty (30) calendar days following receipt of the order from the Department unless there is good cause requiring more time.

(e) When service or repairs are completed following any notice or orders from the Department pursuant to §1201.356(a) of the Standards Act, the manufacturer, retailer, and/or installer shall forward to the Department copies of service or work orders reflecting the date the work was completed, or other documentation to establish that the warranty service or repairs have been completed. A consumer is not required to sign the service or work order. These service or work orders must be received by the Department within five (5) calendar days after the expiration of the period of time specified in the warranty order issued by the Department. Corrective action taken is subject to re-inspection.

(f) If service or repairs cannot be made within the specified time frame, the license holder shall notify the Department in writing prior to the expiration of the specified time frame by certified mail. The notice shall list those items which have been, or will be, completed within the time frame and shall show good cause why the remainder of the service or repairs cannot be made within the specified time frame. The license holder shall request an extension for a specific time. If the Department fails to respond in writing to the request within five (5) business days of the date of receipt of the notice of request for extension, the extension has been granted.

(g) Once the Department receives the service or work orders confirming that all assigned items have been addressed and the Department has, to the extent deemed necessary or appropriate, inspected the work, a complaint will be closed.

(h) A complaint may be reopened for good cause upon the approval of the Director or his or her designee(s).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704111

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Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER G. MANUFACTURERS HOMEOWNERS' RECOVERY TRUST FUND

### 10 TAC §80.80

The new section is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured

Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rule.

§80.80. Administration of Claims under the Manufactured Homeowners' Recovery Trust Fund.

(a) The Director, before authorizing any party performing warranty work or providing other goods or services that are to be reimbursed from the Manufactured Homeowners' Recovery Trust Fund (the "Fund") to proceed, will require that an estimate be submitted on the form set forth by the Department in Subchapter I of this chapter (relating to Forms), properly completed and executed.

(b) Re-assigned warranty work required by the Director to be performed shall, unless extended for good cause or provided otherwise in the order, be performed within thirty (30) days or such other time as the director may by order specify:

(1) evidence that re-assigned warranty work was performed shall, unless extended for good cause, be supplied to the Department within ten (10) days of completion; and

(2) all warranty work or other work to be reimbursed from the Fund, once completed, is subject to being re-inspected.

(c) An order re-assigning warranty work and designating the party responsible for the re-assigned warranty work as a "consumer" under §1201.358(d) of the Standards Act becomes final if not appealed within thirty (30) days.

(d) Failure to provide a required estimate in connection with an order to perform re-assigned warranty work, once that order has become final, may serve as grounds for an administrative action against the licensee.

(e) When a consumer has a covered claim against a licensee and the licensee has not satisfied the claim, the Department shall take appropriate steps to make sure that the claim is proper, meeting all requirements of laws and rules, and that all reasonable steps to satisfy the claim have been exhausted. If the damages arose as a result of a violation of the Texas Deceptive Trade Practice - Consumer Protection Act, the specific violation must be adequately documented. Acceptable documentation would include a court order finding that such a violation had occurred or the establishing of confirmed facts that would specifically constitute such a violation, along with proof that the court order could not be satisfied. The specific violation must relate directly to the manufactured home or the sale transaction regarding the manufactured home.

(f) Once a payment is made from the Fund, the Department shall file a claim under the bond of or deduct the amount paid from other security provided by the party primarily responsible for the unsatisfied claim.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704112

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Interim Executive Director, Manufactured Housing Division of TDHCA  
Texas Department of Housing and Community Affairs  
Earliest possible date of adoption: October 21, 2007  
For further information, please call: (512) 475-2206



## SUBCHAPTER H. STATEMENTS OF OWNERSHIP AND LOCATION

### 10 TAC §§80.90 - 80.93

The new sections are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rules.

#### §80.90. Issuance of Statements of Ownership and Location.

(a) Application Requirements. In order to be deemed complete, an application for a Statement of Ownership and Location must include, as applicable:

(1) A completed and fully executed Application for Statement of Ownership and Location on the Department's prescribed current form;

(2) The required fee;

(3) If the statement of ownership and location is to reflect the recordation of a lien, other than a tax lien, for which the Department does not have the owner's consent, copies of documentation establishing the creation and existence of each such lien, and an affidavit of fact explaining the circumstances of the lien;

(4) When one or more existing liens are to be released, assigned, or foreclosed, appropriate supporting documentation;

(5) When an application for Statement of Ownership and Location indicates a change in ownership but no change in lien, supporting documentation that clearly establishes that the lien holder consented to that change; and

(6) When a manufactured home is to be designated for use as a dwelling after the home has been designated for business use, salvage, or as real property, evidence of a satisfactory habitability inspection by the Department.

(b) Right of Survivorship: If a right of survivorship election is made, then the Department will issue a new Statement of Ownership and Location to the surviving person(s) upon receipt of a copy of the death certificate of the deceased person(s), and a properly executed application for Statement of Ownership and Location, and the applicable fee.

(c) Corrections to Statements of Ownership and Location.

(1) If a correction is required as a result of a Department error, it will be corrected at no charge.

(2) If a correction is requested because of an error made by a party other than the Department, the correction will not be made until the Department receives the following:

(A) A complete corrected application for Statement of Ownership and Location,

(B) Any necessary supporting documentation, and

(C) The required fee, which can be reduced or waived by the director for good cause.

(d) Upon issuance of a Statement of Ownership and Location, the Department will mail one certified copy to the owner and one certified copy to the lienholder. If additional certified copies are desired, an application for a certified copy must be submitted and accompanied by the additional fee.

(e) Exchanging a Document of Title for a Statement of Ownership and Location: The Department will issue a Statement of Ownership, with no change in status, to replace a title at no charge upon receipt of the original title and the physical location of the home. If a manufactured home title showed that it was personal property, that will be presumed to be its status until and unless a revised Statement of Ownership and Location is applied for and issued. Likewise, if a manufactured home has had a certificate of attachment issued and had title cancelled to real property, that shall be presumed to be its status until and unless a revised Statement of Ownership and Location is applied for and issued.

(f) Updating of Statements of Ownership and Location on Manufactured Homes Transferred as Real Property.

(1) When a manufactured home has become real property because the owner completed the conversion process required by the Standards Act, the home may be sold, transferred, or encumbered as real property by the customary means used for real property transactions. As long as the home remains real property at the same location, ownership of the home is confirmed in the same manner as any other real property, rather than by verifying Department records. A new Statement of Ownership and Location does not have to be applied for until and unless:

(A) the manufactured home is moved to a new location;

(B) the current owner of the manufactured home wishes to convert it to personal property status; or

(C) the manufactured home no longer meets the requirements to be classified as real property (such as the home being on property subject to a long term lease which is not assignable to the buyer or transferee).

(2) To convert a manufactured home from real property to personal property, the owner of the home must submit a completed Application for Statement of Ownership and Location to the Department with supporting documentation as follows:

(A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.

(B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.

(C) Evidence of either a satisfactory habitability inspection by the Department or an election to convert the status of the home to business use or salvage.

(3) To update the ownership on a manufactured home already elected and perfected as real property, and remaining in the same

location as real property, the new owner of the home must submit a completed Application for Statement of Ownership and Location to the Department with supporting documentation as follows:

(A) If the applicant is not the owner of record with the Department, satisfactory proof of ownership under a complete chain of title. Acceptable evidence would include, but not be limited to, authenticated copies of all intervening transfer documents, a court order confirming ownership, or title insurance policy in such owner's name issued by a title insurance company licensed to do business in Texas.

(B) Satisfactory evidence that any liens on the manufactured home have been discharged or that all lienholders have consented to the change.

(4) When a home is being converted to real property, a copy stamped "filed" by the county must be submitted to the Department as evidence that the requirements of §1201.2055 of the Standards Act have been satisfied and the real property election has been perfected. This must be done within sixty (60) days from the issuance date reflected on the Statement of Ownership and Location.

§80.91. Issuance of a Texas Seal.

(a) Issuance of a Texas Seal requires the submittal of an application for SOL, the applicable fee and the fee for each Texas Seal issued.

(b) A copy of the written disclosure required in §1201.455(a) must accompany the application for homes sold by a licensed retailer; and

(c) A Texas Seal can only be issued to a home meeting the definition of a HUD Code manufactured home or a mobile home.

§80.92. Inventory Finance Liens.

(a) A lien and security interest on manufactured homes in the inventory of a retailer, as well as to any proceeds of the sale of those homes, is perfected by filing an inventory finance security form approved by the Department and in compliance with these sections. The required form set forth in Subchapter I of this chapter (relating to Forms).

(b) A separate form must be filed for each licensed sales location.

§80.93. Recording Tax Liens on Manufactured Homes.

(a) Manually filed tax liens shall be filed with the Department using the form set forth in Subchapter I of this chapter (relating to Forms). No other form will be accepted for the manual filing of tax liens. The form must be properly completed.

(b) Electronically filed tax liens and tax lien releases shall be filed with the Department using the required format as provided in the following Tax Lien File Layout. No other format will be accepted for electronic filing of tax liens.

Figure: 10 TAC §80.93(b)

(c) For tax liens recorded after June 18, 2005, but prior to the rules that were effective on January 29, 2006, those tax liens relating to tax years prior to 2001 will be disregarded and will not be treated as having been recorded.

(d) A tax collector may file as a central tax collector under a single taxing entity ID number, in which case the liens recorded or released under that taxing entity ID number will extend to all liens created for tax obligations to the taxing entity for which the filer collects. In order, however, to file as a central collector, the filer must complete and provide to the Department the form set forth in Subchapter I of this chapter. A single filing for multiple taxing entities must reflect the aggregate amount of the tax liabilities to which the filing relates.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704113

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Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER I. FORMS

### 10 TAC §80.100

The new section is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to adopt rules as necessary to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the proposed new rule.

§80.100. List of Forms.

(a) The following list is in numerical order with the forms located in subsection (b) of this section.

- (1) Texas Manufacturer's Application for License.
- (2) Out-of-State Manufacturer's Application for License.
- (3) Retailer, Broker, and/or Installer's Application for License.
- (4) Retailer with Branch Locations Application for License.
- (5) Salesperson's Application for License.
- (6) Surety Bond.
- (7) Deposit Account Control Agreement.
- (8) Manufacturer's Certificate of Origin.
- (9) Consumer Disclosure Statement.
- (10) Warranty and Disclosure for a Used Manufactured Home.
- (11) Disclosure of Condition of a Used Manufactured Home.
- (12) Retail Monitoring Checklist.
- (13) Consumer Notice of Licensed and Bonded Location.
- (14) Notice and Informed Consent to Installation on an Improperly Prepared Site.
- (15) Formaldehyde Notice.
- (16) Texas Inventory Finance Security Form.
- (17) Broker Disclosure Form.



- (18) Notice of Installation (Form T).
- (19) Installation Decal Request Form.
- (20) Installation Checklist.
- (21) Estimate for Reassigned Warranty Work.
- (22) Application for Statement of Ownership and Location.
- (23) Application for Correction to Statement of Ownership and Location.
- (24) Affidavit of Fact.
- (25) Affidavit of Error.
- (26) Affidavit of Fact for Right of Survivorship.
- (27) Affidavit of Fact for Incomplete SOL Application.
- (28) Release or Foreclosure of Lien (Form B).
- (29) Statement of Inheritance (Form C).
- (30) Taxing Entity Application for Texas Seal (Form S).
- (31) Form M.
- (32) Instructions to Third Party Closer.
- (33) Tax Lien Record and Release Form.
- (34) Notification of filing status as a Central Tax Collector.

(b) Forms.

- (1) Texas Manufacturer's Application for License.  
Figure: 10 TAC §80.100(b)(1)
- (2) Out-of-State Manufacturer's Application for License.  
Figure: 10 TAC §80.100(b)(2)
- (3) Retailer, Broker, and/or Installer's Application for License.  
Figure: 10 TAC §80.100(b)(3)
- (4) Retailer with Branch Locations Application for License.  
Figure: 10 TAC §80.100(b)(4)
- (5) Salesperson's Application for License.  
Figure: 10 TAC §80.100(b)(5)
- (6) Surety Bond.  
Figure: 10 TAC §80.100(b)(6)
- (7) Deposit Account Control Agreement.  
Figure: 10 TAC §80.100(b)(7)
- (8) Manufacturer's Certificate of Origin.  
Figure: 10 TAC §80.100(b)(8)
- (9) Consumer Disclosure Statement.  
Figure: 10 TAC §80.100(b)(9)
- (10) Warranty and Disclosure for a Used Manufactured Home.  
Figure: 10 TAC §80.100(b)(10)
- (11) Disclosure of Condition of a Used Manufactured Home.  
Figure: 10 TAC §80.100(b)(11)
- (12) Retail Monitoring Checklist.  
Figure: 10 TAC §80.100(b)(12)
- (13) Consumer Notice of Licensed and Bonded Location.  
Figure: 10 TAC §80.100(b)(13)

(14) Notice and Informed Consent to Installation on an Improperly Prepared Site.  
Figure: 10 TAC §80.100(b)(14)

(15) Formaldehyde Notice.  
Figure: 10 TAC §80.100(b)(15)

(16) Texas Inventory Finance Security Form.  
Figure: 10 TAC §80.100(b)(16)

(17) Broker Disclosure Form.  
Figure: 10 TAC §80.100(b)(17)

(18) Notice of Installation (Form T).  
Figure: 10 TAC §80.100(b)(18)

(19) Installation Decal Request Form.  
Figure: 10 TAC §80.100(b)(19)

(20) Installation Checklist.  
Figure: 10 TAC §80.100(b)(20)

(21) Estimate for Reassigned Warranty Work.  
Figure: 10 TAC §80.100(b)(21)

(22) Application for Statement of Ownership and Location.  
Figure: 10 TAC §80.100(b)(22)

(23) Application for Correction to Statement of Ownership and Location.  
Figure: 10 TAC §80.100(b)(23)

(24) Affidavit of Fact.  
Figure: 10 TAC §80.100(b)(24)

(25) Affidavit of Error.  
Figure: 10 TAC §80.100(b)(25)

(26) Affidavit of Fact for Right of Survivorship.  
Figure: 10 TAC §80.100(b)(26)

(27) Affidavit of Fact for Incomplete SOL Application.  
Figure: 10 TAC §80.100(b)(27)

(28) Release or Foreclosure of Lien (Form B).  
Figure: 10 TAC §80.100(b)(28)

(29) Statement of Inheritance (Form C).  
Figure: 10 TAC §80.100(b)(29)

(30) Taxing Entity Application for Texas Seal (Form S).  
Figure: 10 TAC §80.100(b)(30)

(31) Form M.  
Figure: 10 TAC §80.100(b)(31)

(32) Instructions to Third Party Closer.  
Figure: 10 TAC §80.100(b)(32)

(33) Tax Lien Record and Release Form.  
Figure: 10 TAC §80.100(b)(33)

(34) Notification of filing status as a Central Tax Collector.  
Figure: 10 TAC §80.100(b)(34)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704114

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Interim Executive Director, Manufactured Housing Division of TDHCA  
Texas Department of Housing and Community Affairs  
Earliest possible date of adoption: October 21, 2007  
For further information, please call: (512) 475-2206



## CHAPTER 80. MANUFACTURED HOUSING

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department) proposes repeal of §§80.10, 80.11, 80.20, 80.53 - 80.58, 80.62, 80.64, 80.66, 80.119 - 80.123, 80.125 - 80.133, 80.135, 80.180, 80.181, 80.183, 80.201, 80.205, 80.208, 80.240, and 80.260. The repeal of all of 10 TAC, Chapter 80 is necessary to propose a new 10 TAC, Chapter 80 to comply with HB 1460 that was passed by the 80th Legislature (2007 Regular Session) that becomes effective on January 1, 2008, to remove obsolete rules, and to reorganize rules to improve the layout.

Joe A. Garcia, Interim Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period the repeal is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the repeal.

Mr. Garcia also has determined that for each year of the first five years the repeal is in effect the public benefit as a result of enforcing the repeal will be to eliminate unnecessary or redundant verbiage and to propose new rules and revisions that organize the rules by grouping in related subjects that are more logical. The repeal is expected to have no material economic costs to persons/businesses that are required to comply with the repeal as proposed. There are expected to be no fiscal implications for units of local government as a result of enforcing or administering the repeal.

Comments may be submitted to Mr. Joe A. Garcia, Interim Executive Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail at the following address [joe.garcia@tdhca.state.tx.us](mailto:joe.garcia@tdhca.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

### SUBCHAPTER A. CODES AND STANDARDS

#### 10 TAC §80.10

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rule.

§80.10. *Texas Manufactured Housing Standards Code.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704098

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER B. DEFINITIONS

#### 10 TAC §80.11

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rule.

§80.11. *Definitions.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704099

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER C. FEE STRUCTURE

#### 10 TAC §80.20

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division

of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rule.

§80.20. *Fees.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704100

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER D. STANDARDS AND REQUIREMENTS

### 10 TAC §§80.53 - 80.58, 80.62, 80.64, 80.66

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rules.

§80.53. *Requirements for Manufacturer's Designs and Installation Instructions.*

§80.54. *Requirements for the Installation of Manufactured Homes.*

§80.55. *Generic Standards for Anchoring Systems.*

§80.56. *Generic Standards for Multi-Section Connections Standards.*

§80.57. *Generic Standards for Moisture and Ground Vapor Controls.*

§80.58. *Generic Standards for Footers and Piers.*

§80.62. *Registration of Stabilizing Components and Systems.*

§80.64. *Procedures for Alterations.*

§80.66. *Rebuilding or Repairing a 'Salvaged' Manufactured Home.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704101

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Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206



## SUBCHAPTER E. GENERAL REQUIREMENTS

### 10 TAC §§80.119 - 80.123, 80.125 - 80.133, 80.135

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rules.

§80.119. *Installation Responsibilities.*

§80.120. *Manufacturer's Responsibilities.*

§80.121. *Retailer's Responsibilities.*

§80.122. *Security Requirements.*

§80.123. *License Requirements.*

§80.125. *Advertising Regulations.*

§80.126. *Rules for Hearings.*

§80.127. *Sanctions and Penalties.*

§80.128. *Arbitration Rules.*

§80.129. *Alternative Dispute Resolution.*

§80.130. *Delivery of Warranty.*

§80.131. *Correction Requirements.*

§80.132. *Procedures for Handling Consumer Complaints.*

§80.133. *Administration of Claims under the Manufactured Home-owners' Recovery Trust Fund.*

§80.135. *Manufactured Housing Auctions.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704102

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206

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## SUBCHAPTER F. CONSUMER NOTICE REQUIREMENTS

### 10 TAC §§80.180, 80.181, 80.183

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rules.

§80.180. *Formaldehyde Notice Requirements.*

§80.181. *Sale of a Home from a Location other than a Principal, Licensed, Retail Location.*

§80.183. *Three Day Right of Rescission.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704103

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206

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## SUBCHAPTER G. STATEMENTS OF OWNERSHIP AND LOCATION

### 10 TAC §§80.201, 80.205, 80.208

*(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeals are proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rules.

§80.201. *Issuance of Statements of Ownership and Location.*

§80.205. *Inventory Finance Liens.*

§80.208. *Recording Tax Liens on Manufactured Homes.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704104

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206

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## SUBCHAPTER H. TABLES AND FIGURES

### 10 TAC §80.240

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052, which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rule.

§80.240. *Tables and Figures.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704105

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-2206

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## SUBCHAPTER I. FORMS

### 10 TAC §80.260

*(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Department of Housing and Community Affairs or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin.)*

The repeal is proposed under the Texas Manufactured Housing Standards Act, Occupations Code, Chapter 1201, §1201.052,

which provides the Department with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and under Texas Government Code, Chapter 2306, §2306.6014, which authorizes the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statute, code, or article is affected by the repealed rule.

*§80.260. Required and Optional Forms.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704106

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Earliest possible date of adoption: October 21, 2007

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## **TITLE 16. ECONOMIC REGULATION**

### **PART 4. TEXAS DEPARTMENT OF LICENSING AND REGULATION**

#### **CHAPTER 65. BOILERS**

##### **16 TAC §§65.10, 65.40, 65.70, 65.100**

The Texas Department of Licensing and Regulation ("Department") proposes amendments to existing rules at 16 Texas Administrative Code, §§65.10, 65.70, and 65.100, and new §65.40 regarding definitions, a new metrication policy, responsibilities, and technical requirements of the boiler program.

The proposed amendments and new rule are necessary to establish a metrication policy for the boiler program, make technical requirements for boilers more consistent with the National Board Inspection Code (NBIC) and the ASME (American Society of Mechanical Engineers) Code, and update repair requirements for boilers. These rule changes were recommended by the Board of Boiler Rules at its meeting on April 19, 2007.

Section 65.10, paragraphs (27) and (28) are added to define the terms used in new §65.40 regarding metrication.

New §65.40 is added to keep the Texas Boiler Law and Rules current with the format of the NBIC and the ASME Code. These codes are used by manufacturers and repair facilities in countries other than the United States where metric (SI) units are the standard.

Section 65.70 is amended to conform to the current ASME Code, Section I. Currently the hydrostatic test pressure requirement is one and one-half times the allowable working pressure. Safety is an issue when conducting a hydrostatic pressure test on historical boilers. Decreasing the required pressure to one and one-quarter maintains a safety zone while still providing a pressure sufficient to test overall integrity.

Section 65.100 is amended to require that safety valves and safety relief valves be mounted properly. A failure of these de-

vices can cause major failure of the complete boiler. ASME Code only allows certain types of mountings of these valves based on historical data on failures and operational malfunctions. To help ensure that public health and safety are protected, the Department believes it is necessary to address this item specifically in the rules to prevent failures of the safety valves and safety relief valves.

This section is also amended to no longer allow holders of ASME "Certificates of Authorization" to conduct repairs and alterations to boilers. The scope of the ASME certificate does not authorize the holder of such a certificate to conduct repairs or alterations. These certificates are used for new construction only. The National Board of Boiler and Pressure Vessel Inspectors provide "Certificates of Authorization" to conduct repairs and/or alterations. It is not the intent of this rule change to imply that holders of the ASME certificates are not proficient enough to make a sound repair, but rather the rule change recognizes that the repairs are not within the scope of such a certificate. Most holders of ASME certificates also hold the National Board certificate.

This section is also amended to limit the restriction of feedwater supply to miniature boilers. Requirements for miniature boilers fall under the Power Boiler section of the Boiler Law and Rules because they are built to ASME Code Section I. Many western hat stores and jewelry stores have these types of boilers, and the current requirement makes it difficult to modify the boilers to comply with the restriction on feeding the boiler while under pressure. There are safety hazards that are created by limiting this requirement, such as steam blowback while opening the fill valve and thermal shock when adding cold water to a hot boiler. The proposed rule contains restrictions intended to minimize such hazards.

This section is also amended to ensure that non-welded replacement parts meet the original code of construction, as required for welded repairs and alterations. Traceability of the part ensures compliance with the ASME Code and to prevent parts from being installed onto boilers that were produced for non-ASME Code boilers.

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendments and new rule are in effect there will be no impact on costs or revenues of the state or local government as a result of enforcing or administering the amendments and new rule.

Mr. Kuntz also has determined that for each year of the first five-year period the amendments and new rule are in effect, the public benefit will be enhanced safety of boilers as a result of including specific safety valve requirements in the rules. In addition, the industry should benefit from rule requirements that are more consistent with national standards for the boiler industry.

Mr. Kuntz also has determined that for each year of the first five-year period the amendments and new rule are in effect there will be some cost savings to businesses, such as western wear stores and jewelry stores, as a result of limiting the restriction on feedwater supply to miniature boilers. Some of the businesses that benefit will likely be small or micro-businesses. The amount of the cost savings has not been determined. Additionally, while there may be some costs to persons required to comply with the new rules, the Department does not anticipate that the cost will be significant. Owner/users of boilers, which may include small or micro-businesses, will no longer be able to use an individual who only holds an ASME certificate of authorization to perform repairs. However, the Department does not anticipate that the

overall costs to owner/users will be significant because most individuals who hold an ASME certificate of authorization already hold a National Board certificate of authorization as well.

Comments on the proposal may be submitted to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: [erule.comments@license.state.tx.us](mailto:erule.comments@license.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rule are proposed under Texas Health and Safety Code, Chapter 755 and Texas Occupations Code, Chapter 51, which authorizes the Department to adopt rules as necessary to implement those chapters and any other law establishing a program regulated by the Department. In particular, the rules are proposed under Texas Health and Safety Code, §755.032, which authorizes the Commission of Licensing and Regulation to adopt and enforce rules, in accordance with standard boiler usage, for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers.

The statutory provisions affected by the proposal are those set forth in Texas Health and Safety Code, Chapter 755 and Texas Occupations Code, Chapter 51. No other statutes, articles, or codes are affected by the proposal.

#### *§65.10. Definitions.*

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (26) (No change.)

(27) Metric (SI)--An international system of measurement.

(28) Mettrication--The process of converting between US customary units and metric (SI) units.

(29) [(27)] Modular boiler--A steam or hot water heating assembly consisting of a group of individual boilers called modules, intended to be installed as a unit, with a single inlet and single outlet. Modules may be under one jacket or may be individually jacketed.

(30) [(28)] Multiple pressure steam generator--A boiler consisting of several sections of heat exchange surface designed for different pressure levels.

(31) [(29)] National Board--The National Board of Boiler and Pressure Vessel Inspectors.

(32) [(30)] National Board Inspection Code--The manual for boiler and pressure vessel inspectors published by the National Board.

(33) [(31)] New installations--A boiler constructed, installed, or placed in operation after June 3, 1937.

(34) [(32)] Nominal--The accepted ASME standard used to designate a size or capacity of an item.

(35) [(33)] Nonstandard boiler--A boiler that does not qualify as a standard boiler.

(36) [(34)] Nuclear boiler--A nuclear power plant system, including its pressure vessels, piping systems, pumps, valves, and storage tanks, that produces and controls an output of thermal energy from nuclear fuel and the associated systems essential to the function of the power system.

(37) [(35)] Owner or operator--Any person, firm, or corporation owning or operating boilers within the State of Texas.

(38) [(36)] Portable power boiler--A boiler primarily intended for use at a temporary location.

(39) [(37)] Potable water heater--A boiler designed for operation at pressures not exceeding 160 pounds per square inch gage (1100 kilopascals) and water temperatures not exceeding 210 degrees Fahrenheit (99 degrees Celsius) if the boiler's heat input exceeds 200,000 British thermal units per hour (58.6 kilowatts) or nominal water-containing capacity exceeds 120 gallons (454 liters).

(40) [(38)] Power boiler--A high-temperature water boiler or a boiler in which steam is generated at a pressure exceeding 15 pounds per square inch gage (103 kilopascals) for a purpose external to the boiler.

(41) [(39)] Preliminary order--A written order issued by the chief inspector or any deputy inspector to require repairs or alterations to render a boiler safe for use or to require that operation of the boiler be discontinued. A Repair Requirement form that is signed by the chief inspector or a deputy inspector is a Preliminary Order.

(42) [(40)] Process steam generator--An evaporator, heat exchanger, or vessel in which steam is generated by the use of heat resulting from the operation of a processing system that contains a number of pressure vessels, such as used in the manufacture of chemical and petroleum products.

(43) [(41)] Reinstalled boiler--A boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

(44) [(42)] Repair--The work necessary to return a boiler to a safe and satisfactory operating condition without changing the original design.

(45) [(43)] Rules--The rules promulgated and enforced by the commission in accordance with the Health and Safety Code, §755.032 and Occupations Code, Chapter 51.

(46) [(44)] Safety appliance--A safety device such as a safety valve or a safety relief valve for a boiler provided to diminish the danger of accidents.

(47) [(45)] Secondhand boiler--A boiler of which both the location and ownership have changed.

(48) [(46)] Special inspection--An inspection by the chief inspector or deputy inspector other than those in the Health and Safety Code, §§755.025, 755.026, and 755.027.

(49) [(47)] Standard boiler--A boiler that bears a Texas stamp, the stamp of a nationally recognized engineering professional society, or the stamp of any jurisdiction that has adopted a standard of construction equivalent to the standard required by the executive director.

(50) [(48)] Steam heating boiler--A boiler designed for operation at pressures not exceeding 15 pounds per square inch gage (103 kilopascals).

(51) [(49)] Unfired steam boiler--An unfired pressure vessel in which steam is generated. The term does not include: vessels known as evaporators or heat exchangers; or vessels in which steam is generated by using the heat that results from the operation of a processing system that contains a number of pressure vessels, as used in the manufacture of chemical and petroleum products.

#### *§65.40. Mettrication Policy.*

(a) The following provides policy guidelines for the use of US customary units and metric (SI) units. Throughout Chapter 65, metric

(SI) units are identified and placed in parentheses after the US customary units in the text and any associated exhibits.

(b) There are two rationales when converting between US customary units and metric (SI) units:

(1) Soft conversions--A soft conversion is an exact conversion.

(A) Example: 200,000 Btu/hr = 58.56208 kW

(B) Example: 120 gallons = 454.24944 liters

(2) Hard conversions--A hard conversion is simply performing a soft conversion and then rounding off within the intended specific range.

(A) Example: 200,000 Btu/hr = 58.6 kW

(B) Example: 120 gallons = 454 liters

(c) Repairs and alterations, when performed, shall be to the specified units used in the original code of construction. If the original units are US customary units, then the repair or alteration shall be to US customary units, and if the original units are metric (SI) units, then the repair or alteration shall be to the metric (SI) units. The selected units shall be used consistently throughout each repair or alteration and all aspects of the work required (i.e. materials, design, procedures, testing, documentation and stamping).

(d) The following procedure shall be used when converting between US customary units and metric (SI) units:

(1) All conversions will be done using a soft conversion.

(2) Soft conversions will be reviewed for accuracy.

(3) Depending upon a specified value in Chapter 65, an appropriate degree of precision shall be identified.

(4) A rounding up or down may apply to each conversion to determine the degree of precision needed for each application.

*§65.70. Responsibilities of the Licensee/Certificate Holder/Registrant.*

(a) (No change.)

(b) Existing installations.

(1) - (2) (No change.)

(3) The age limit of any boiler of nonstandard construction installed prior to the date this law became effective shall be 30 years, except after a thorough internal and external annual inspection and annual hydrostatic pressure test of one and one-quarter times the allowable working pressure held for a period of at least 30 minutes, during which no distress or leakage develops. At no time, while applying the hydrostatic pressure test, shall the pressure exceed one and one-quarter times the allowable working pressure by more than 6%. Any boiler having other than a lap-riveted longitudinal joint may be continued in operation without reduction in working pressure. [The age limit of any boiler of nonstandard construction installed prior to the date this law became effective shall be 30 years, except that after a thorough internal and external inspection and hydrostatic pressure test of one and one-half times the allowable working pressure, held for a period of at least 30 minutes, during which no distress or leakage develops, any boiler having other than a lap-riveted longitudinal joint may be continued in operation without reduction in working pressure.] The age limit of any nonstandard boiler having lap-riveted longitudinal joints and operating at a pressure in excess of 50 psig (345 kilopascals) shall be 20 years; this type of boiler, when removed from the existing setting, shall not be reinstalled for a pressure in excess of 15 psig (103 kilopascals);

and a reasonable time for replacement shall be given at the discretion of the executive director.

(4) - (6) (No change.)

(c) - (m) (No change.)

*§65.100. Technical Requirements.*

(a) - (f) (No change.)

(g) Power boilers, excluding unfired steam boilers and process steam generators.

(1) Safety valves and safety relief valves.

(A) - (B) (No change.)

(C) Safety valves or safety relief valves shall be connected so as to stand in the upright position, with spindle vertical. The opening or connection between the boiler and the safety valve or safety relief valve shall have at least the area of the valve inlet.

(D) ~~[(C)]~~ The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as practicable to the boiler without unnecessary intervening pipe or fittings.

(E) ~~[(D)]~~ No valve(s) of any description shall be placed between the required safety valve or safety relief valve or valves and the boiler, nor in the discharge pipe between the safety valve or safety relief valve or valves and the atmosphere. When a discharge pipe is used, it shall be at least full size of the safety valve discharge and fitted with an open drain to prevent water lodging in the upper part of the safety valve or discharge pipe. When an elbow is placed on a safety valve discharge pipe, it shall be located close to the safety valve outlet. The discharge pipe shall be securely anchored and supported. In the event multiple safety valves discharge into a common pipe, the discharge pipe shall be sized in accordance with ASME Code, Section I, PG-71. All safety valve or safety relief valve discharges shall be located or piped to a safe point of discharge clear from walkways or platforms.

(F) ~~[(E)]~~ The safety valve capacity of each boiler must allow the safety valve or valves to discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than 6.0% above the highest pressure to which any valve is set, and to no more than 6.0% above the maximum allowable working pressure. For forced-flow steam generators with no fixed steam and water-line, power-actuated relieving valves may be used in accordance with ASME Code, Section I, PG-67.

(G) ~~[(F)]~~ One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valve(s) may be set within a range of 3.0% above the maximum allowable working pressure, but the range of setting of all the safety valves on a boiler shall not exceed 10% of the highest pressure to which any valve is set.

(H) ~~[(G)]~~ When two or more boilers, operating at different pressures and safety valve settings, are interconnected, the lower pressure boilers or interconnected piping shall be equipped with safety valves of sufficient capacity to prevent overpressure, considering the maximum generating capacity of all boilers.

(I) ~~[(H)]~~ In those cases where the boiler is supplied with feedwater directly from water mains without the use of feeding apparatus (not to include return traps), no safety valve shall be set at a pressure higher than 94% of the lowest pressure obtained in the supply main feeding the boilers.

(2) Feedwater supply.

(A) Each boiler shall have a feedwater supply, which will permit it to be fed at any time while under pressure, except for automatically fired miniature boilers that meet all of the following criteria: [-]

(i) the boiler is "M" stamped per ASME Code, Section I;

(ii) the boiler is designed to be fed manually;

(iii) the boiler is provided with a means to prevent cold water from entering into a hot boiler; and

(iv) the boiler is equipped with a warning sign visible to the operator not to introduce cold feedwater into a hot boiler.

(B) - (F) (No change.)

(3) - (8) (No change.)

(h) Unfired steam boilers.

(1) - (2) (No change.)

(3) Safety valves and safety relief valves

(A) - (E) (No change.)

(F) Safety valve and safety relief valve mountings.

(i) For ASME Code, Section I installations, safety valves or safety relief valves shall be connected so as to stand in the upright position, with spindle vertical. The opening or connection between the boiler and the safety valve or safety relief valve shall have at least the area of the valve inlet.

(ii) For ASME Code, Section VIII, Division 1 installations, safety valves or safety relief valves normally should be installed in the upright position with spindle vertical. Where space or piping configurations preclude such an installation, the valve may be installed in other than the vertical position, provided that:

(I) the valve design is satisfactory for such position;

(II) the media is such that material will not accumulate at the inlet of the valve; and

(III) drainage of the discharge side of the valve body and discharge piping is adequate.

(4) - (8) (No change.)

(i) Process steam generators.

(1) - (3) (No change.)

(4) Safety valves and safety relief valves.

(A) - (E) (No change.)

(F) Safety valve and safety relief valve mountings.

(i) For ASME Code, Section I installations, safety valves or safety relief valves shall be connected so as to stand in the upright position, with spindle vertical. The opening or connection between the boiler and the safety valve or safety relief valve shall have at least the area of the valve inlet.

(ii) For ASME Code, Section VIII, Division 1 or Division 2 installations, safety valves or safety relief valves normally should be installed in the upright position, with spindle vertical. Where space or piping configurations preclude such an installation, the valve may be installed in other than the vertical position, provided that:

(I) the valve design is satisfactory for such position;

(II) the media is such that material will not accumulate at the inlet of the valve; and

(III) drainage of the discharge side of the valve body and discharge piping is adequate.

(5) - (9) (No change.)

(j) (No change.)

(k) Heating boilers.

(1) Steam heating.

(A) Safety valves.

(i) - (vi) (No change.)

(vii) Safety valves and safety relief valves shall be installed on the boiler with their spindles vertical. The opening or connection between the boiler and any safety valve or safety relief valve shall have at least the area of the valve inlet.

(B) - (G) (No change.)

(2) Hot water heating.

(A) Safety relief valves.

(i) - (ix) (No change.)

(x) Safety relief valves and safety valves shall be installed on the boiler with their spindles vertical. The opening or connection between the boiler and any safety relief valve or safety valve shall have at least the area of the valve inlet.

(B) - (G) (No change.)

(3) Hot water supply.

(A) Safety relief valves.

(i) - (ix) (No change.)

(x) Safety relief valves and safety valves shall be installed on the boiler with their spindles vertical. The opening or connection between the boiler and any safety relief valve or safety valve shall have at least the area of the valve inlet.

(B) - (G) (No change.)

(4) (No change.)

(l) Repairs and alterations.

(1) Repairs and alterations shall conform to the current edition of the National Board Inspection Code (NBIC) and addenda; and shall be acceptable to the inspector, except that repairs and alterations may be performed by the following provided the intended work is within the scope of the issued certificate of authorization:

(A) holders of a certificate of authorization from the National Board of Boiler and Pressure Vessel Inspectors for use of the R repair symbol stamp; or

(B) owner/operators of boilers who have been issued a certificate of authorization by the Texas Department of Licensing and Regulation.

(i) Issuance of the certificate of authorization will be made upon submission of an application, on forms provided by the department.

(ii) Review of the applicant's program and facilities initially and at subsequent three-year intervals will be done.



(I) The review will determine the applicant has a documented program to control repairs and/or alterations conforming to minimum requirements established by the department.

(II) The review will require demonstration of the applicant's ability to perform repairs and/or alterations by implementing on representative work the requirements of the written program.

(2) Non-welded repairs.

(A) Replacement parts made of plate material used for pressure retaining shall require material test reports (MTR). Traceability to the MTR must be maintained at all times.

(B) Replacement parts fabricated by welding shall be certified, stamped with the appropriate ASME Code symbol and inspected by an authorized inspector as required by the ASME Code.

(C) When a non-welded repair involves the replacement of cast or forged parts that are identified with the ASME Code symbol at the time of casting or forging, these parts shall be replaced with cast or forged parts that are identified with the ASME Code symbol or so certified by the manufacturer to be in accordance with the original code of construction.

(D) All other materials shall not require MTR's, provided the material is identified with the material specification, grade, lot and rating as required by the material or product specification and the ASME Code.

(E) When used parts are utilized for non-welded repairs, it is the repair entity's responsibility to ensure the parts are identified as required above.

{(1) holders of the appropriate certificate(s) of authorization from the American Society of Mechanical Engineers; or}

{(2) holders of a certificate of authorization from the National Board of Boiler and Pressure Vessel Inspectors for use of the R repair symbol stamp; or}

{(3) owner/operators of boilers who have been issued a certificate of authorization by the Texas Department of Licensing and Regulation.}

{(A) Issuance of the certificate of authorization will be made upon submission of an application, on forms provided by the department.}

{(B) Review of the applicant's program and facilities initially and at subsequent three-year intervals will be done.}

{(i) The review will determine the applicant has a documented program to control repairs and/or alterations conforming to minimum requirements established by the department.}

{(ii) The review will require demonstration of the applicant's ability to perform repairs and/or alterations by implementing on representative work the requirements of the written program.}

(m) - (o) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704163

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-7348



## CHAPTER 75. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

### 16 TAC §§75.10, 75.24, 75.27, 75.28, 75.73, 75.80, 75.90

The Texas Department of Licensing and Regulation ("Department") proposes amendments to existing rules at 16 Texas Administrative Code, §§75.10, 75.24, 75.80, and 75.90, and new §§75.27, 75.28, and 75.73, regarding the air conditioning and refrigeration contractors program.

These rules are necessary to implement the provisions of House Bill 463 adopted by the 80th Legislature providing for registration of air conditioning and refrigeration technicians, to clarify ambiguous statutory definitions, and to delete provisions that are no longer relevant.

Section 75.10 is amended by adding new paragraph (19) to define the term "offering to perform" that appears in the statutory definition of the term "air conditioning and refrigeration contracting". Since September 1999 when the phrase was added to the statute, the Department has interpreted it to mean that advertising the availability of air conditioning and refrigeration services is offering to perform such services and that unlicensed individuals may not do so. Concerns have been raised that merely advertising is not offering in the sense of a contractual arrangement. To allay such concerns, the Texas Commission of Licensing and Regulation ("Commission") proposes this new definition to clarify what some may view as an ambiguous phrase, and make it clear that one who advertises the availability of such services must be licensed. The paragraphs below new paragraph (19) are renumbered. New §75.10(24) is added to define the term "total replacement of a system" that appears in the statutory definition of the term "air conditioning and refrigeration maintenance work". House Bill 463, 80th Legislature, requires registration of air conditioning and refrigeration technicians and defines them as persons who assist a licensee in the performance of air conditioning and refrigeration maintenance work. The definition of maintenance work provides that it does not include total replacement of a system. The Commission proposes to clarify the term to establish who must be registered as a technician.

Section 75.24 is amended at subsection (a)(1) and subsection (b) to add the terms "registrant" or "registration" as appropriate to include the new registration of technicians.

New §75.27 is added to establish registration application procedures and registration terms for technicians. Subsection (d) provides that temporary registrations, valid for 21 days, will be issued to applicants who have not been convicted of a criminal offense or been placed on deferred adjudication.

New §75.28 is added to provide that technicians may choose to obtain the right to use the designation "certified technician", though it is not required, and to establish the procedure for obtaining such certification.

New §75.73 is added to set out responsibilities of registered technicians. The existing rules for licensed air conditioning and refrigeration contractors and for contracting companies set out

their respective responsibilities and those for contractors that are applicable to technicians have been included in the new rule. In addition, §75.73(a)(5) prohibits a registered technician who has not obtained certification from using the designation.

Section 75.80 is amended to add fees for technician registration, \$20.00, and technician certification, \$15.00.

Section 75.90 is amended by deleting the phrase, "and 16 Texas Administrative Code, Chapter 60 of this title (relating to the Texas Commission of Licensing and Regulation)".

William H. Kuntz, Jr., Executive Director, has determined that for the first five-year period the proposed amendments and new rules are in effect there will be costs for the Department to register and regulate technicians. Those costs will be offset by revenues generated by application and certification fees.

Mr. Kuntz also has determined that for each year of the first five-year period the amendments and new rules are in effect, the public benefit will be that air conditioning and refrigeration technicians will be registered with the Department, and subject to its regulation, and that applicants are subject to a criminal background check.

There will be costs imposed by these rule changes that will be borne by individuals who are required by the new statutory provisions to become registered.

Comments on the proposal may be submitted to Caroline Jackson, Legal Assistant, General Counsel's Office, Texas Department of Licensing and Regulation, P.O. Box 12157, Austin, Texas 78711, or facsimile (512) 475-3032, or electronically: [erule.comments@license.state.tx.us](mailto:erule.comments@license.state.tx.us). The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments and new rules are proposed under Texas Occupations Code, Chapter 1302 and Chapter 51, which authorizes the Department to adopt rules as necessary to implement this chapter and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposal are those set forth in Texas Occupations Code, Chapter 1302 and Chapter 51. No other statutes, articles, or codes are affected by the proposal.

#### §75.10. *Definitions.*

The following words and terms have the following meanings:

(1) - (18) (No change.)

(19) Offering to perform--Making a written or oral proposal, contracting in writing or orally to perform air conditioning and refrigeration work, or advertising in any form through any medium that a person or business entity is an air conditioning and refrigeration contractor, or that implies in any way that a person or business entity is available to contract for or perform air conditioning and refrigeration work.

(20) ~~[(49)]~~ Permanent office--Any location, which must be identified by a street address, or other data identifying a rural location, from which a person or business entity conducts the business of an air conditioning and refrigeration contracting company. A location not open to the public, or not located within the state, may serve as a permanent office so long as the department and consumers have access to the licensee required by §1302.252 of the Act to be employed in each permanent office.

(21) ~~[(20)]~~ Primary process medium--a refrigerant or other primary process fluid that is classified in the current ANSI/ASHRAE

Standard 34 as Safety Group A1, A2, B1, or B2. Safety Groups A3 and B3 refrigerants are specifically excluded.

(22) ~~[(24)]~~ Proper installation, and service--installing, servicing, repairing, and maintaining air conditioning and refrigeration equipment in accordance with:

(A) applicable municipal ordinances and codes adopted by a municipality where the installation occurs;

(B) the current Uniform Mechanical Code or the current International Mechanical Code and International Fuel Gas Code, in areas where no code has been adopted;

(C) the manufacturer's specifications and instructions; and

(D) all requirements for safety and the proper performance of the function for which the equipment or product was designed.

(23) ~~[(22)]~~ Repair work--diagnosing and repairing problems with air conditioning, commercial refrigeration, or process cooling or heating equipment, and remedying or attempting to remedy the problem. Repair work does not mean simultaneous replacement of the condensing unit, furnace, and evaporator coil.

(24) Total replacement of a system--Replacement of the condensing unit, the evaporator coil, the furnace, if applicable, and the air handling unit.

#### §75.24. *Licensing and Registration Requirements--Renewal.*

(a) A renewal application must contain:

(1) the licensee's or registrant's name, license number, permanent address and telephone number;

(2) - (4) (No change.)

(b) A licensee or registrant shall not perform work requiring a license or registration under the Act with an expired license or registration or a license or registration that has been denied renewal, except as allowed by the Administrative Procedure Act.

#### §75.27. *Air Conditioning and Refrigeration Technician Registration--Application.*

(a) An applicant shall submit a complete application and appropriate fees.

(b) The term of an air conditioning and refrigeration technician's registration one year.

(c) A registration is not transferable.

(d) An applicant for registration as an air conditioning and refrigeration technician will be issued a temporary registration that is valid for 21 days if the applicant:

(1) has not been convicted of a criminal offense, or been placed on deferred adjudication; and

(2) pays the required fee.

#### §75.28. *Air Conditioning and Refrigeration Technician--Certification.*

(a) A registered technician is not required to be certified by the Department, and a registrant may perform the same tasks as those performed by a certified technician.

(b) A registered technician may use the designation "certified technician" after obtaining Department certification.

(c) To obtain certification an applicant must:

- (1) complete an application for certification;
- (2) provide proof of having passed a certification examination administered by;

(A) a nationally recognized certification organization;  
or

(B) other organizations approved by the Department;  
and

- (3) pay the required fee.

§75.73. Air Conditioning and Refrigeration Technician--Responsibilities.

- (a) A registrant shall:

(1) provide proper installation and service, and assure the mechanical integrity of work and installations performed by the registrant;

(2) not misrepresent the need for services, services to be provided, or services that have been provided;

(3) not knowingly perform any non-exempt air conditioning and refrigeration maintenance work without being under the supervision of a licensed air conditioning and refrigeration contractor;

(4) not knowingly provide non-exempt air conditioning and refrigeration work for or on behalf of an air conditioning and refrigeration contracting company that does not have an affiliation with a licensed individual who supervises all air conditioning and refrigeration work as provided by Occupations Code, Chapter 1302, and these rules; and

(5) not use the designation "certified technician" unless he has been certified by the Department pursuant to §75.28.

(b) A registrant shall not allow another individual to use his registration for any purpose.

(c) A registrant shall not allow any air conditioning and refrigeration contracting company, or any air conditioning and refrigeration contractor with which he is not employed to use his registration for any purpose, except as otherwise allowed by these rules.

(d) A registrant shall notify the Department, in writing, within thirty days of any change in permanent mailing address, and telephone number.

(e) Altering a registration in any way is prohibited and is grounds for imposition of administrative penalties and/or sanctions.

§75.80. Fees.

- (a) - (f) (No change.)

(g) Technician registration fee is \$20.

(h) Certified technician fee is \$15.

(i) ~~[(g)]~~ Late renewal fees for licenses and registrations issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees).

§75.90. Sanctions--Administrative Sanctions/Penalties.

A person or entity that violates Texas Occupations Code Chapter 1302, or a rule, or order of the Executive Director or Commission relating to the Act, shall be subject to the imposition of administrative sanctions and/or administrative penalties in accordance with the Act or the Texas Occupations Code, Chapter 51 ~~[and 16 Texas Administrative Code, Chapter 60 of this title (relating to the Texas Commission of Licensing and Regulation)]~~.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704164

William H. Kuntz, Jr.

Executive Director

Texas Department of Licensing and Regulation

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-7348



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER A. GENERAL PROVISIONS

##### 19 TAC §1.5

The Texas Higher Education Coordinating Board proposes amendments to §1.5, concerning coordinating board committees. Specifically this amendment will provide that while all Board members may participate in all committee meetings, only members of a given committee may vote on that committee's actions.

William M. Franz, General Counsel, has determined that for each year of the first five years the section is in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Franz has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the increased efficiency of Board committees. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to William M. Franz, General Counsel, P.O. Box 12788, Austin, Texas 78711. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.027, which provides the Coordinating Board with the authority to make rules to govern its proceedings.

The amendments affect Texas Education Code, §61.026.

##### *§1.5. Coordinating Board Committees.*

- (a) - (c) (No change.)

(d) Each member of the Board ~~[is an ex-officio member of each committee and]~~ may participate in all committee meetings ~~[and vote on any committee actions]~~. However, only committee members may vote on committee actions.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 11, 2007.

TRD-200704193

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: October 25, 2007

For further information, please call: (512) 427-6114



## 19 TAC §1.16

The Texas Higher Education Coordinating Board proposes amendments to §1.16, concerning contracts for materials and services. Specifically, this amendment will provide that in certain instance in which the agency has no real discretion with regard to grants or contracts, such contracts need not be approved by the Board or the Agency Operations Committee.

William Franz, General Counsel, has determined that for each year of the first five years the section is in effect there will not be any fiscal implications to state or local government as a result of enforcing or administering the rule.

Mr. Franz has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section would be efficient execution of statutorily required grants or contracts. There is no effect on small businesses. As outlined above, there are no significant anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to William Franz, General Counsel, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, §61.027 which provides the Coordinating Board with the authority to adopt rules.

The amendments will effect Texas Education Code §61.027.

### §1.16. *Contracts for Materials and Services.*

(a) - (e) (No change.)

(f) In the event that the agency is required by statute to enter into a contract for the purchase of materials or services with a value of over \$100,000, including the awarding of grants, approval of such a request or contract by the Board or the Agency Operations Committee pursuant to subsection (a) or (b) of this section, as appropriate, shall not be required when such an award involves no significant exercise of discretion by the Board or agency staff.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 4, 2007.

TRD-200704066

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: October 25, 2007

For further information, please call: (512) 427-6114



## CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

### SUBCHAPTER K. INSTRUCTIONAL MATERIAL FOR BLIND AND VISUALLY IMPAIRED STUDENTS AND STUDENTS WITH DYSLEXIA

#### 19 TAC §§4.201 - 4.206

The Texas Higher Education Coordinating Board proposes new §§4.201 - 4.206, concerning instructional material for blind and visually impaired students and students with dyslexia. The new sections describe how students who qualify under the section will request course materials in an electronic or alternative format from publishers or manufacturers of those materials and how those materials will be distributed to students in a timely manner. The proposed rules are in response to the provisions of a new section of the Texas Education Code, §51.970 created by House Bill 3382, 80th Texas Legislature.

Dr. Joseph H. Stafford, Assistant Commissioner for Academic Affairs and Research, has determined that for each year of the first five years the proposal is in effect, there will not be any significant fiscal implications to state or local government as a result of this proposal.

Dr. Stafford has also determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of administering the proposal would be in ensuring that a greater number of blind and visually impaired students and students with dyslexia would graduate from public institutions of higher education as a result of receiving their instructional materials in an electronic or alternative format in a timely manner. There is no undue hardship on small businesses. There are no anticipated economic costs to persons who are required to comply with the proposal. There is no impact on local employment.

Comments on the proposal may be submitted to Joe Stafford, Assistant Commissioner for Academic Affairs and Research, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas 78711 or [joe.stafford@thecb.state.tx.us](mailto:joe.stafford@thecb.state.tx.us). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new sections are proposed under Texas Education Code, §51.970, enacted by House Bill 3382 (80th Regular Session, Texas Legislature), §1.

The new sections will implement the provisions of House Bill 3382, §1, which establishes Texas Education Code §51.970.

#### §4.201. Purpose.

The purpose of this subchapter is to implement the provisions of Texas Education Code, §51.970, relating to providing certain electronic copies of instructional material for blind and visually impaired stu-

dents and students with dyslexia who are enrolled at public institutions of higher education.

§4.202. Authority.

Under Texas Education Code, §51.307, the Board is authorized to adopt rules to implement the provisions of Texas Education Code §51.970. Texas Education Code §51.970(h) and (i), authorizes the Board to impose reasonable administrative penalties against publishers and manufacturers, the method for identifying instructional material considered to be required or essential for a student's success in a course, the procedures and standards relating to distribution of electronic copies of instructional material under this section; and any other matter considered necessary or appropriate establish guidelines and reporting requirements.

§4.203. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Blind or visually impaired student--Includes any student whose visual acuity is impaired to the extent that the student is unable to read the print in the standard instructional material used in a course in which the student is enrolled.

(2) Coordinating Board--The Texas Higher Education Coordinating Board.

(3) Dyslexia--A condition of dyslexia considered to be a disability under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) or §504 of the Rehabilitation Act of 1973 (29 U.S.C. §794).

(4) Institution of higher education--Has the meaning assigned by Texas Education Code §61.003.

(5) Instructional material--A printed textbook or other printed instructional material or a combination of a printed book and supplementary printed instructional material sold through a Texas bookstore that:

(A) conveys information to or otherwise contributes to the learning process of a student; and

(B) was first published or issued a new copyright date on or after January 1, 2004.

(6) Special instructional material--Instructional material in Braille, large print, audio format, digital text, or any other medium or any apparatus that conveys information to or otherwise contributes to the learning process of a blind or visually impaired student or a student with dyslexia.

§4.204. Exemptions/Exceptions.

This section applies only to instructional material that is:

(1) written and published primarily for postsecondary instruction of students; and

(2) required or essential for a student's completion of a course or program requirement at an institution of higher education, as identified by the instructor of the course for which the instructional material will be used, in consultation with the person at the institution with primary responsibility for services for students with disabilities and in accordance with rules adopted under §4.205 of this chapter (relating to Method for Identifying Instructional Material Considered to be Required or Essential for a Student's Success in a Course).

§4.205. Method for Identifying Instructional Material Considered to be Required or Essential for a Student's Success in a Course.

(a) Materials that are considered required or essential for a course or program requirement are those materials that are:

(1) identified in writing by an academic department or instructor as being essential for the student to complete a course and/or program requirements;

(2) listed on a course syllabus, or other written format used to describe the course; or

(3) identified by agreement between instructor and student as essential for completing a program requirement not part of a specific course, such as an independent research project.

(b) In order to facilitate students getting their materials in a timely manner, instructors and academic departments shall comply with their institution's procedures for turning in materials and reading lists by the established deadlines.

§4.206. Procedures and Standards Relating to Distribution of Electronic Copies of Instructional Material.

(a) Students who qualify to receive instructional materials under this provision will submit their request to the publisher or manufacturer through their institution. To assist the institution in producing special instructional material, a publisher or manufacturer of instructional material assigned by an institution of higher education for use by students in connection with a course at the institution shall provide to the institution on the institution's request in accordance with this section a copy in an electronic format of the instructional material. The publisher or manufacturer, as applicable, shall provide the electronic copy not later than the 15th business day after the date of receipt of the request or 15th business day after publication of the material, whichever comes later.

(b) A request made by an institution of higher education under this provision must:

(1) certify that for each blind or visually impaired student or student with dyslexia who will use specialized instructional material based on the requested copy of the material in an electronic format for a course in which the student is enrolled at the institution, either the institution or the student has purchased a printed copy of the instructional material;

(2) be signed by the person at the institution with primary responsibility for services for students with disabilities or their designee; and

(3) include all available identifying information related to the material, including but not limited to ISBN number.

(c) A publisher or manufacturer may require that a request made by an institution of higher education under this section include from each student for whom the institution is mailing the request a signed statement in which the student agrees:

(1) to use the requested electronic copy and related special instructional material only for the student's own educational purposes;

(2) not to copy or otherwise distribute in a manner that violates 17 U.S.C. §101 et seq. the requested electronic copy or the instructional material on which the requested electronic copy is based;

(3) agree to return the electronic copy of instructional material to the institution's disability services office upon re-selling the original printed material, dropping the course for which the material was requested, or withdrawing from the institution; and

(4) attest that any violation of provisions contained in the signed statement may jeopardize future service provided by the manufacturer or publisher for the student under this section, and may result in further disciplinary measures from the institution.

(d) Each electronic copy of instructional material must:

(1) be in a format that:

(A) except as provided by this subsection, contains all of the information that is in the instructional material, including any text, sidebar, table of contents, chapter headings, chapter subheadings, footnotes, index, glossary, and bibliography, and is approved by the publisher or manufacturer, as applicable, and the institution of higher education as a format that will contain that material; and

(B) is compatible with commonly used Braille translation and speech synthesis software; and

(C) include any correction or revision available at the time the electronic copy is provided.

(2) If the publisher or manufacturer and the institution of higher education are not able to agree on a format as required by paragraph (1) of this subsection, the publisher or manufacturer, as applicable, shall provide the electronic copy of the instructional material in a format that can be read by a word processing application and that contains as much of the material specified by that subsection as is practicable.

(3) Materials provided under this section may be delivered by traditional mail or via a File Transfer Protocol site with notification provided to an institution as to the availability of the material.

(e) The Coordinating Board may impose a reasonable administrative penalty, not to exceed \$250 per violation, against a publisher or manufacturer that knowingly violates this section. The Coordinating Board shall provide for a hearing to be held, in accordance with Coordinating Board rule, to determine whether a penalty is to be imposed and the amount of any penalty. The coordinating board shall base the amount of any penalty on:

- (1) the seriousness of the violation;
- (2) any history of a previous violation;
- (3) the amount necessary to deter a future violation;
- (4) any effort to correct the violation; and
- (5) any other matter justice requires.

(f) Notwithstanding any other provision of this section, a publisher or manufacturer is not required to comply with subsection (a) or (d) of this section, as applicable, if the Coordinating Board, using procedures and criteria adopted by Coordinating Board rule and based on information provided by the publisher or manufacturer, determines that:

(1) compliance by the manufacturer or publisher would violate a law, rule, or regulation relating to copyrights; or

(2) the instructional material on which the requested electronic copy is based is:

(A) out of print; or

(B) in a format that makes it impracticable to convert the material into an electronic format.

(g) The manufacturer or publisher has the option to allow an institution to maintain a repository of electronic formats of previously requested instructional materials for re-use in order to comply with this section. An institution that is authorized to re-use previously requested instructional materials must comply with provisions in subsections (b) and (c) of this section relating to requesting instructional material and all other provisions outlined in this section.

(h) A manufacturer or publisher may deliver an electronic format authorized under this section with electronic security measures (to

include encryption) so long as the measures do not interfere with access for the institution or the student who requested the materials.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704174

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: October 25, 2007

For further information, please call: (512) 427-6114



## CHAPTER 21. STUDENT SERVICES

### SUBCHAPTER W. EDUCATIONAL LOAN REPAYMENT PROGRAM FOR ATTORNEYS EMPLOYED BY THE OFFICE OF THE ATTORNEY GENERAL

#### 19 TAC §§21.710, 21.714 - 21.716

The Texas Higher Education Coordinating Board proposes minor, largely non-substantive amendments to §21.710 and §§21.714 - 21.716, concerning repayment of certain education loans owed by certain state attorneys. Specifically, these amendments will require that the eligible attorney have been employed full-time by the Office of the Attorney General, delete the requirement that the applicant be an Assistant Attorney General I - III at the time of application, delete the requirement that the applicant have been employed for fewer than five years, and change the requirement as to the time the eligible loan not be in default from the beginning of the service period to the time of application for the program.

William M. Franz, General Counsel, has determined that for each year of the first five years the sections are in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Franz has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be the recruitment and retention of qualified attorneys in the Office of the Attorney General. There is no effect on small businesses. There is no anticipated economic cost to persons who are required to comply with the sections as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to William M. Franz, General Counsel, P.O. Box 12788, Austin, Texas 78711. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, §61.9729, which provides the Coordinating Board with the authority to make rules concerning the Education Loan Repayment Program for Attorneys Employed by the Office of the Attorney General.

The amendments affect §§61.9721 - 61.9732 of the Education Code.

*§21.710. Authority and Purpose.*

(a) Authority. Authority for this subchapter is provided in the Texas Education Code, Chapter 61, Subchapter DD [~~Subchapter X~~], Repayment of Certain Education Loans Owed by Certain State Attorneys. These rules establish procedures to administer the program as prescribed in the Texas Education Code, §§61.9721 - 61.9732.

(b) (No change.)

*§21.714. Eligible Attorney.*

To be eligible for loan repayment assistance, an applicant must:

(1) - (2) (No change.)

(3) have been employed full-time for at least one year by the Office of the Attorney General [~~and be employed as an Assistant Attorney General I - III at the time that the application is submitted~~];

~~{(4) have been employed for fewer than five years by the Office of the Attorney General at the time that the application is submitted;}~~

(4) ~~[(5)]~~ be in good standing with the State Bar of Texas and the Office of the Attorney General; and

(5) ~~[(6)]~~ have not received more than two previous awards of annual repayment assistance under this Program.

*§21.715. Eligible Education Loan.*

An eligible education loan is one that:

(1) - (3) (No change.)

(4) is not in default at the time of application [~~beginning of the service period~~], and

(5) (No change.)

*§21.716. Education Loan Repayments.*

The Application Review Committee shall inform the Board when applicants have satisfactorily met all eligibility requirements and have been selected for an award, and the Board shall arrange for the disbursement of the award. Annual assistance payments to eligible recipients must meet the following conditions [~~Eligible education loans shall be paid once an award once a year under the following conditions~~]:

(1) the annual award shall be:

(A) co-payable to the attorney and the holder(s) of the loan(s), and forwarded to the applicant to submit to his or her holder; or

(B) made payable to the holder and forwarded directly, or sent by electronic funds transfer (EFT) to the holder by the Board;

(2) - (3) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704175

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: October 25, 2007

For further information, please call: (512) 427-6114

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**TITLE 22. EXAMINING BOARDS**

**PART 6. TEXAS BOARD OF PROFESSIONAL ENGINEERS**

**CHAPTER 131. ORGANIZATION AND ADMINISTRATION**

**SUBCHAPTER A. ORGANIZATION OF THE BOARD**

**22 TAC §131.9**

The Texas Board of Professional Engineers proposes an amendment to §131.9, relating to Officers of the Board. The proposed amendment is related to the duties of the Secretary of the Board.

HB 899 (80th Regular Session 2007) was signed into law adding a treasurer to the list of Board officers and repealing §1001.109 from the Texas Engineering Practice Act. This proposed rule change is to conform with these statutory changes.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no additional fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is a clarification of the duties of the Secretary and Treasurer of the Board and the efficient operation of the agency.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state; Occupations Code §1001.108 which provides for certain officers of the Board, and §1001.109 which outlines certain responsibilities for the Board Secretary. HB 899 amended sections §1001.108 and §1001.109 of the Act.

No other statutes, articles or codes are affected by the proposed amendment.

*§131.9. Officers of the Board.*

(a) - (c) (No change.)

(d) Secretary of the Board. The secretary of the board is charged with carrying out the duties prescribed in the Act, §1001.211 and §1001.308 [~~§§1001.109, 1001.211 and, §1001.308 and may delegate those duties prescribed in §1001.109 to the Treasurer or executive director~~] and may delegate those duties prescribed in §1001.211 to the executive director.

(e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704162

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 440-7723



## CHAPTER 133. LICENSING

### SUBCHAPTER F. REFERENCE DOCUMENTATION

#### 22 TAC §133.53

The Texas Board of Professional Engineers proposes an amendment to §133.53, relating to Reference Statements. The proposed amendment is related to the requirements for preparing a reference statement for an application for licensure.

The proposed rule distinguishes between the supplementary experience record (SER) and reference statements that must be submitted for an application for licensure, and requires that both forms are signed by the reference provider.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no additional fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. Increased efficiency in the licensure process can be expected; however, this should result in only a minimal positive fiscal impact. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is a clarification of the licensure application process.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state; Occupations Code §1001.302 which outlines the minimum requirements for licensure; and §1001.303 which lists the requirements for an application for licensure.

No other statutes, articles or codes are affected by the proposed amendment.

#### §133.53. Reference Statements.

(a) The applicant shall send the board's reference statement form and a complete copy of the applicable portion(s) of the supplementary experience record to each reference provider.

(b) Persons providing reference statements verifying an applicant's engineering experience shall:

(1) complete and sign the reference statement form; [review and evaluate, all applicable portions of the supplementary experience record(s);] and

(2) review, evaluate, and sign all applicable portions of the supplementary experience record(s). The reference provider's signature indicates that he has read the supplementary experience record(s), that the record(s) are correct to the best of his knowledge, and that the experience is relevant to licensure. If the reference provider disagrees with or has comments or clarification to the information provided by the applicant, the reference provider should submit written comments or concerns to the board [accurately complete the reference statement form certifying agreement or disagreement with the information written by the applicant].

(c) The reference provider shall submit to the board both the reference statement and the supplemental experience record. [If the reference provider is in disagreement with or has comments or clarification to the information provided by the applicant, the reference provider may submit comments or concerns to the board with the completed reference statement.]

(d) For any reference statement to meet the requirements of the board, the reference statement must be secured. For a reference statement to be considered secure, the reference provider shall:

(1) place the completed reference statement and reviewed supplementary experience records in an envelope;

(2) seal the flap of the envelope;

(3) after sealing the envelope, the reference provider shall sign across the sealing edge of the flap of the envelope and cover the signature with transparent tape; and

(4) the reference provider shall return the sealed envelope to the applicant or transmit the documents directly to the board.

(e) Secured reference envelopes shall be submitted to the board by applicant or reference provider.

(f) Evidence of retaliation by an applicant against a person who provides reference material for an application may be considered in the application process as described in §133.81(d) of this chapter (relating to Receipt and Process).

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704161

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 440-7723





## SUBCHAPTER G. EXAMINATIONS

### 22 TAC §133.73

The Texas Board of Professional Engineers proposes an amendment to §133.73, relating to Examination Analysis. The proposed amendment requires that the Board provide numeric scores for examinations that have numeric scores, and clarifies the score required to pass an examination.

House Bill 899 (80th Regular Session 2007) requires the board to provide examination results that include numerical scores and an indication of pass/fail. This proposed rule change conforms with this statutory change. An exclusion included in the proposed rule provides that exam scores for the Structural II examination will not be provided since NCEES does not provide numeric scores and only reports exam results as pass/fail. The Board has also long held that a score of 70 is required to pass the fundamentals of engineering and the principles and practice of engineering exams. This proposed rule change includes language to indicate the required passing score. Both proposed rule changes will help clarify the exam scoring and reporting process.

Lance Kinney, P.E., Deputy Executive Director for the board, has determined that for the first five-year period the proposed amendment is in effect there are no additional fiscal implications for the state or local government as a result of enforcing or administering the section as amended. Mr. Kinney has determined that there is no additional cost to the agency or to licensees. There is no fiscal impact to individuals required to comply with the rule. There is no effect to small or micro businesses.

Mr. Kinney also has determined that for the first five years the proposed amendment is in effect, the public benefit anticipated as a result of enforcing the proposed amendment is a clarification of the examination grading process.

Comments may be submitted no later than 30 days after the publication of this notice to Lance Kinney, P.E., Deputy Executive Director, Texas Board of Professional Engineers, 1917 IH-35 South, Austin, Texas 78741 or faxed to his attention at (512) 440-0417.

The amendment is proposed pursuant to the Texas Engineering Practice Act, Occupations Code §1001.202, which authorizes the board to make and enforce all rules and regulations and by-laws consistent with the Act as necessary for the performance of its duties, the governance of its own proceedings, and the regulation of the practice of engineering in this state; Occupations Code §1001.302(a)(2) and §1001.305 provide for the Board to administer exams to determine the qualifications of applicants; and §1001.306 outlines the requirements for providing examination results. House Bill 899 amended §1001.306 of the Act.

No other statutes, articles or codes are affected by the proposed amendment.

#### *§133.73. Examination Results and Analysis*

(a) For each examinee that has completed the examination on the fundamentals of engineering or the examination on the principles and practice of engineering, the board shall provide a numerical score and an indication of whether the person passed or failed the examination. For each examinee that has completed the Structural II examination on the principles and practice of engineering, the board shall provide only an indication of whether the person passed or failed the examination.

(b) For those exams with numerical scores, the passing score is 70.

(c) ~~[(a)]~~ In accordance with §1001.306(c) of the Act, the board will provide a written analysis furnished by the NCEES or by the board to anyone who has failed either the examination on the fundamentals of engineering or the examination on the principles and practice of engineering.

(d) ~~[(b)]~~ Once the board has provided a written analysis of an examination, no further review or re-grading shall be available for the examination except as provided in subsection (e) ~~[(e)]~~ of this section. However, the executive director may, at his or her discretion, review the administrative portions of an examination answer sheet to resolve administrative uncertainties and/or determine the manner in which an examination should be scored.

(e) ~~[(e)]~~ An examinee may view the examination on the fundamentals of engineering or the principles and practice of engineering results or request regrading of such examination only as permitted by the uniform examination procedures set out by NCEES or by the board:

(1) only at the date(s) and time(s) specified by the board in its letter notifying the examinee of his or her failure of the examination; and

(2) provided that any costs associated with regrading by NCEES or by the board will be paid by the examinee.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704160

Dale Beebe Farrow, P.E.

Executive Director

Texas Board of Professional Engineers

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 440-7723



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 10. TEXAS WATER DEVELOPMENT BOARD

#### CHAPTER 375. CLEAN WATER STATE REVOLVING FUND

#### SUBCHAPTER A. GENERAL PROVISIONS DIVISION 2. PROGRAM REQUIREMENTS

#### 31 TAC §375.12, §375.15

The Texas Water Development Board (board) proposes amendments to 31 TAC §375.12 and §375.15, concerning Clean Water State Revolving Fund, to provide for extended financing terms.

The board proposes to amend §375.12 and §375.15 in order to implement the March 17, 2006 Policy Statement of the United States Environmental Protection Agency (EPA) on Extended Financing Terms under the Clean Water Act State Revolving Fund Program (EPA Policy Statement). Currently, §375.12 limits the term of loans from the Clean Water State Revolving Fund (CWSRF) to 20 years. According to the EPA Policy Statement,

the board may use the CWSRF to purchase new municipal obligations with terms that exceed 20 years (extended financing terms). Subsequent to the EPA Policy Statement, EPA has issued additional memoranda identifying guidelines pursuant to which the board may purchase new municipal obligations with terms that exceed 20 years. The board proposes amendments to §375.12 and §375.15 to provide extended financing terms consistent with EPA guidance because the board believes that providing extended financing term responds to CWSRF program customer requests to provide terms that more closely match the life of the assets financed by the CWSRF. Additionally, the board proposes these amendments to provide an additional incentive for Texas communities to access the CWSRF program to address wastewater infrastructure needs in a cost-effective manner.

The board proposes to amend §375.12(a) to move the conditions under which the board can make loans identified in paragraph (1)(A), (B), and (C) to new proposed §375.12(c). According to the EPA guidance on extended financing terms, the conditions in paragraph (1)(A), (B), and (C) apply to both CWSRF loans as well as to the purchase of new municipal obligations with extended financing terms. The board proposes this amendment in order to consolidate the conditions applicable to loans and new municipal obligation purchases into new proposed subsection (c).

The board proposes to add new §375.12(c) to include the conditions pursuant to which the CWSRF may be used to finance loans pursuant to §375.12(a)(1) or to purchase new municipal obligations pursuant to §375.12(a)(2). The board proposes new §375.12(c)(1) and (2) because these are conditions currently applicable to loans under federal and state statute and because the EPA guidance on extended financing terms considers these conditions to be applicable to the purchase of new municipal obligations.

The board proposes new §375.12(c)(3) to apply the current loan requirement that loan repayments commence one year after project construction completion to the purchase of new municipal obligations. The proposal for this subsection also includes new conditions that interest payments will commence no later than 1 year after the date of closing and principal payments will commence either 1 year after project completion or 5 years after the date the loan is closed or the purchase is made, whichever is earlier. The board proposes this amendment in order to insure that repayments are started within this timeframe in order to establish an adequate flow of funds into the CWSRF.

The board proposes new §375.12(c)(4) to include the current loan requirement that a loan term not exceed 20 years and that the loan is fully amortized within 20 years after the completion of construction, which is consistent with current federal and state statutes. As proposed, this requirement will be generally applicable to new municipal obligations purchased by the board as well. The board also proposes that this new subsection include the additional condition that the average bond life of loans or municipal obligations not exceed 16 years. Current board rules allow loans and municipal obligations to have debt structures where the amount of principal paid may vary from year to year (also referred to as unlevel debt structure). The board has determined that allowing more principal to mature later in the term of the loan or municipal obligation may adversely affect the integrity of the CWSRF. Therefore, the board proposes to accommodate unlevel debt structures while insuring timely flow of funds into the CWSRF by limiting the average bond life to no more than

16 years when the term of the loan or municipal obligation is 20 years.

The board proposes new §375.12(c)(5) to allow extended financing terms only for the purchase of new municipal obligations as authorized by federal and state statutes. The board proposes extended financing term be defined as greater than 20 years but no more than 30 years because terms of greater than 30 years may reduce the amount of repayments to the CWSRF and thereby adversely affect the sustainability of the program. This proposed new subsection provides three conditions under which the board may provide extended financing terms. First, the board proposes new §375.12(c)(5)(A) to limit the term to be no longer than the earlier of either 30 years or the useful life of the asset financed by the proposed assistance. The board proposes this condition to allow longer terms while maintaining the integrity of the CWSRF consistent with EPA guidance. Second, the board proposes new §375.12(c)(5)(B) to limit the average bond life for extended term financing to be no more than 20 years in order to ensure a timely flow of funds into the CWSRF. Third, the board proposes new §375.12(c)(5)(C) to limit the amount of new municipal obligations purchased by the CWSRF to the amount estimated, pursuant to proposed §375.15(a), to be available for such financings while maintaining the total amount of funds historically available through the CWSRF.

The board proposes to amend §375.15(a) to include the requirement that the executive administrator prepare a capacity model analysis of the CWSRF for the board prior to its consideration of each annual intended use plan. The proposed amendment requires that the analysis identify the historical average annual assistance levels made available for financial assistance by the CWSRF program account; estimate the total amount of funds available for financial assistance from the CWSRF for the succeeding fiscal year; estimate an amount of financial assistance from the CWSRF that can be used for financial assistance for an extended term in the succeeding year in a manner that maintains the long-term capability of the CWSRF to provide financial assistance at the same historical funding levels and will not decrease the funding level by ten percent or more in any year, or at the historical average annual assistance levels; estimate the amount of funds from the CWSRF to be made available for projects that will serve disadvantaged communities; and evaluate the long term availability of funds for the CWSRF. The board proposes this amendment to estimate the amount of funds that may be made available for extended financing terms without adversely affecting the integrity of the CWSRF. By this amendment, the board proposes to move the current provisions of §375.12(a), which establishes categories of projects in the intended use plan, to §375.12(b) and renumbering accordingly. The board proposes this amendment for subject matter organizational purposes.

Melanie Callahan, Chief Financial Officer, has determined that for the first five-year period the amendments are in effect, there will be positive fiscal implications on state and local government as a result of enforcement and administration of the amended sections. By allowing longer terms for financial assistance under the CWSRF, local governments will be able to reduce loan repayments and consequently maintain lower utility wastewater rates. Since local governments voluntarily participate in this program, however, it is not possible to determine with any precision the amount of the impact on local governments.

Ms. Callahan has also determined that for the first five years the amendments, as proposed, are in effect, the public benefit anticipated as a result of enforcing the proposed amend-

ments will be to allow municipalities and other public wastewater utility providers to maintain lower residential rate structures. Ms. Callahan has determined there will not be economic costs to small businesses or individuals required to comply with the amendments as proposed.

Comments on the proposal will be accepted for 30 days following publication and may be submitted to Michelle McFaddin, Staff Attorney, General Counsel's Office, Texas Water Development Board, P.O. Box 13231, Austin, Texas 78711-3231, by e-mail to michelle.mcfaddin@twdb.state.tx.us or by fax at (512) 475-3073.

Statutory authority: Texas Water Code, §6.101 and §15.605.

Cross reference to statute: Texas Water Code, Chapter 15, Subchapter J.

*§375.12. Types of Assistance.*

(a) Use of fund. The fund may be used for the following purposes:

(1) to make loans ~~[on the condition that:]~~

~~[(A) such loans are made at or below market interest rates, including interest free loans at terms not to exceed 20 years;]~~

~~[(B) annual principal and interest payments will commence not later than one year after completion on any project and all loans will be fully amortized not later than 20 years after project completion; and]~~

~~[(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans;]~~

(2) - (6) (No change.)

(b) (No change.)

(c) Conditions of Financial Assistance. Financial assistance pursuant to subsection (a)(1) or (2) of this section may only be provided on the condition that:

(1) the financial assistance is made at or below market interest rates, including 0% interest;

(2) the recipient of the financial assistance will establish a dedicated source of revenue for repayment of the financial assistance;

(3) interest payments will commence no later than 1 year after the date of closing and annual principal payments will commence either one year after completion of project construction or 5 years after the date of closing, whichever is earlier;

(4) the term of the financial assistance shall not exceed 20 years, the average bond life shall not exceed 16 years provided, and the financial assistance will be fully amortized not later than 20 years after the completion of project construction; and

(5) notwithstanding paragraph (4) of this subsection, the board may buy the bonds of eligible applicants with an extended term (defined as a term of more than 20 years but not more than 30 years) on the condition that:

(A) the financial assistance is fully amortized not later than 30 years after the completion of project construction and the term of the bonds are no longer than either 30 years or the design life of the project for which the assistance is provided, whichever is earlier;

(B) the average bond life shall not exceed 20 years for either a level or unlevel debt service schedule; and

(C) providing the assistance will not exceed the amount identified in the applicable intended use plan as available for financial assistance with an extended term.

*§375.15. Criteria and Methods for Distribution of Funds.*

(a) Prior to the adoption by the board of the intended use plan in each fiscal year, the executive administrator shall prepare and present to the board a capacity model analysis of the CWSRF which shall, at a minimum:

(1) identify the historical average annual assistance levels made available for financial assistance by the CWSRF program account;

(2) estimate the total amount of funds available from the CWSRF for the succeeding fiscal year that can be used to provide financial assistance;

(3) estimate an amount of funds available from the CWSRF for the succeeding year that can be used to provide financial assistance for an extended term (defined as a term of more than 20 years but not more than 30 years) that maintains the long-term capability of the fund. The Fund is to be protected by always ensuring through the use of a 60-Year Capacity Model that the program's historical level of funding is maintained. The funding level is not to:

(A) decrease when making loans of longer than twenty (20) years by ten percent (10%) or more as compared to the level of funding available if extended financing terms were not offered; or

(B) if applicable, the CWSRF must maintain its historical average annual assistance levels (baseline) prior to allowing extended terms (annual analysis performed and reported);

(4) estimate an amount of funds available from the CWSRF for the succeeding year that can be used to provide financial assistance for projects that will serve disadvantaged communities; and

(5) evaluate the long term availability of funds for the CWSRF.

[(a) After the executive administrator determines the amount of funds available for projects for a fiscal year, the funds will be applied to the list of projects designated to receive funding in the intended use plan. The list will be divided into eight categories as follows:]

[(1) category A, which shall consist of treatment works projects proposed by applicants with existing populations of 3,000 or fewer;]

[(2) category B, which shall consist of treatment works projects proposed by applicants with existing populations from 3,001 to 10,000; ]

[(3) category C, which shall consist of treatment works projects proposed by applicants with existing populations from 10,001 to 25,000;]

[(4) category D, which shall consist of treatment works projects proposed by applicants with existing populations from 25,001 to 100,000;]

[(5) category E, which shall consist of treatment works projects proposed by applicants with existing populations from 100,001 to 500,000; ]

[(6) category F, which shall consist of treatment works projects proposed by applicants with existing populations of 500,001 or greater;]

[(7) category G, which shall consist of treatment works projects proposed by applicants for rural hardship communities; and]

~~[(8) category H, which shall consist of nonpoint source projects or estuary management projects.]~~

(b) After the executive administrator determines the amount of funds available for projects for a fiscal year, the funds will be applied to the list of projects designated to receive funding in the intended use plan.

(1) The list will be divided into eight categories as follows:

(A) category A, which shall consist of treatment works projects proposed by applicants with existing populations of 3,000 or fewer;

(B) category B, which shall consist of treatment works projects proposed by applicants with existing populations from 3,001 to 10,000;

(C) category C, which shall consist of treatment works projects proposed by applicants with existing populations from 10,001 to 25,000;

(D) category D, which shall consist of treatment works projects proposed by applicants with existing populations from 25,001 to 100,000;

(E) category E, which shall consist of treatment works projects proposed by applicants with existing populations from 100,001 to 500,000;

(F) category F, which shall consist of treatment works projects proposed by applicants with existing populations of 500,001 or greater;

(G) category G, which shall consist of treatment works projects proposed by applicants for rural hardship communities; and

(H) category H, which shall consist of nonpoint source projects or estuary management projects plan.

(2) [(b)] Projects for categories A - G shall be listed in priority ranking order with funds required and totaled by category. Projects in category H shall be listed in alphabetical order according to the name of the applicant with funds required and totaled for the category. Project costs will be based on cost estimates, acceptable to the executive administrator, contained in the intended use plan solicitation described in §375.17 of this title (relating to Intended Use Plan) used to establish the project list. Funds required by all projects in each category will then be totaled. Except for category G, a percentage of the total funds required by each category shall be computed based upon the ratio of funds required by each category to the funds required by all categories. The portion of the available funds shall be assigned to the categories based on this computed percentage, provided that no category will be assigned less than 7.0% of the total funds available unless the total needs of the category are less than 7.0%. The funds assigned to category G shall be equal to the amount of federal grants available for the fiscal year plus an equal amount of CWSRF loan funds.

(c) (No change.)

(d) After the funding line is drawn, if funds are available pursuant to Subchapter B of this chapter [title] (relating to Provisions Pertaining to Use of Capitalization Grant Funds), the executive administrator shall notify in writing all applicants above the funding line of the availability of such funds for the fiscal year and shall invite the submittal of applications. Such funds shall be distributed in accordance with the provisions of Subchapter B of this chapter.

(e) After the executive administrator determines that the funds made available pursuant to Subchapter B of this chapter are sufficiently utilized to satisfy the federal requirements, the executive administrator

shall notify in writing all remaining applicants above the funding line of the availability of funds for the fiscal year and shall invite the submittal of applications. Applicants will be allowed four months from the date of the notice of availability of funds or until August 31 of the fiscal year, whichever is sooner, to submit applications for assistance, and will be allowed two additional months to receive a loan commitment.

(f) - (o) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704176

Michelle McFaddin

Attorney

Texas Water Development Board

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 463-8249



## **TITLE 34. PUBLIC FINANCE**

### **PART 1. COMPTROLLER OF PUBLIC ACCOUNTS**

#### **CHAPTER 3. TAX ADMINISTRATION**

##### **SUBCHAPTER J. PETROLEUM PRODUCTS DELIVERY FEE**

###### **34 TAC §3.151**

The Comptroller of Public Accounts proposes an amendment to §3.151, concerning imposition, collection, and bonds or other security of the fee. The amendment is necessary to reflect the passage of House Bill 3554, 80th Legislature, 2007, that amended Water Code, Chapter 26, to reduce the petroleum products delivery fee imposed on the withdrawal of petroleum products imported into Texas or withdrawn from bulk facilities and delivered into cargo tanks or barges.

Subsection (c) is being amended to implement the reduced fee rate schedule for fiscal years 2008, 2009, 2010 and 2011. The fee remains in effect through August 31, 2011.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the amendment will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing the amended rule will be in providing additional information concerning taxpayer responsibilities. This rule is adopted under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed amendment.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711-3528.

This amendment is proposed under Tax Code, §111.002 and §111.0022, which provide the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of the provisions of Tax Code, Title 2, and taxes, fees, or other charges which the comptroller administers under other law.

The amendment implements Water Code, §26.3574.

§3.151. *Imposition, Collection, and Bonds or Other Security of the Fee.*

(a) - (b) (No change.)

(c) The fee is collected by the operator of a bulk facility from the person ordering the withdrawal. The fee is computed as follows:

(1) \$3.75 [~~\$10~~] for each delivery made after August 31, 2007 [~~August 31, 2003~~], and before September 1, 2011 [~~September 1, 2007~~], into a cargo tank or barge having a capacity of less than 2,500 gallons;

(2) \$7.50 [~~\$20~~] for each delivery made after August 31, 2007 [~~August 31, 2003~~], and before September 1, 2011 [~~September 1, 2007~~], into a cargo tank or barge having a capacity of 2,500 gallons or more but less than 5,000 gallons;

(3) \$11.75 [~~\$30~~] for each delivery made after August 31, 2007 [~~August 31, 2003~~], and before September 1, 2011 [~~September 1, 2007~~], into a cargo tank or barge having a capacity of 5,000 gallons or more but less than 8,000 gallons;

(4) \$15.00 [~~\$40~~] for each delivery made after August 31, 2007 [~~August 31, 2003~~], and before September 1, 2011 [~~September 1, 2007~~], into a cargo tank or barge having a capacity of 8,000 gallons or more but less than 10,000 gallons;

(5) \$7.50 [~~\$20~~] for each increment of 5,000 gallons or any part thereof delivered after August 31, 2007 [~~August 31, 2003~~], and before September 1, 2011 [~~September 1, 2007~~], into a cargo tank or barge having a capacity of 10,000 gallons or more; and

(6) the fee is repealed effective September 1, 2011 [~~2007~~].

(d) - (y) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704119

Martin Cherry

General Counsel

Comptroller of Public Accounts

Earliest possible date of adoption: October 21, 2007

For further information, please call: (512) 475-0387

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# ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

## TITLE 22. EXAMINING BOARDS

### PART 11. TEXAS BOARD OF NURSING

#### CHAPTER 211. GENERAL PROVISIONS

##### 22 TAC §§211.6, §211.7

The Texas Board of Nursing adopts amendments to §211.6, concerning Committees of the Board and §211.7, concerning Executive Director. The proposed amendments are adopted without changes to the proposed text as published in the August 3, 2007, issue of the *Texas Register* (32 TexReg 4706).

House Bill 2426 (Sunset Bill) amended the Nursing Practice Act by adding §301.1595 (Advisory Committees) to the Texas Occupations Code addressing the make-up and function of the Board's advisory committees. The Sunset Bill also amended the Nursing Practice Act by adding two provisions to Texas Occupations Code §301.204 (General Rules Policies, and Procedures Regarding Complaint Investigation and Disposition). New requirements were added requiring the Board to allow "appropriate employees of the board to dismiss a complaint" if certain factors existed and requiring the executive director to report to the board each complaint dismissed since the board's last public meeting. The amendments to §211.6 and §211.7 are for the purpose of implementing these statutes.

No comments were received in response to the proposal of these amendments.

The amendments are adopted pursuant to the authority of Texas Occupations Code §301.151 and §301.152 which authorizes the Texas Board of Nursing to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704118

Katherine Thomas

Executive Director

Texas Board of Nursing

Effective date: September 26, 2007

Proposal publication date: August 3, 2007

For further information, please call: (512) 305-6823



## CHAPTER 217. LICENSURE, PEER ASSISTANCE AND PRACTICE

### 22 TAC §§217.2, 217.4, 217.5

The Texas Board of Nursing (Board) adopts amendments to §217.2, concerning Licensure by Examinations for Graduates of Nursing Education Programs Within the United States, its Territories, or Possessions; §217.4, concerning Requirements for Initial Licensure by Examination for Nurses Who Graduate from Nursing Education Programs Outside of United States' Jurisdiction; and §217.5, concerning Temporary License and Endorsement. The amendments are adopted without changes to the proposed text as published in the August 3, 2007, issue of the *Texas Register* (32 TexReg 4707).

The amendments are being adopted pursuant to bills passed in the 80th Legislative Session and the Board's Sunset Review. House Bill 2426 amended the Nursing Practice Act to include the requirement that on or after September 1, 2008, an applicant for a Texas nursing license must pass "the jurisprudence exam approved by the board...." The board is in the early stages of implementing this statute, but the amendment to §§217.2, 217.4, and 217.5 incorporates this requirement.

In addition, the Sunset Committee recommended that the Board remove the requirement that applications for licensure filed with the Board be notarized. This recommendation is made, in part, to provide consistency in the application process, because applicants who use the on-line process are not required to utilize the notarized statement.

No comments were received in response to the proposal of these amendments.

The amendments are adopted pursuant to the authority of Texas Occupations Code §301.151 and §301.152 which authorizes the Texas Board of Nursing to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 6, 2007.

TRD-200704117

Katherine Thomas

Executive Director

Texas Board of Nursing

Effective date: September 26, 2007

Proposal publication date: August 3, 2007

For further information, please call: (512) 305-6823

## CHAPTER 223. FEES

### 22 TAC §223.1

The Texas Board of Nursing adopts amendments §223.1, concerning Fees, with one change to the proposed text as published in the August 3, 2007, issue of the *Texas Register* (32 TexReg 4709).

Section 223.1(a) is changed to reflect the Board of Nurse Examiner's new name effective September 1, 2007, the Texas Board of Nursing. The adopted amendment recommends several modifications to fees due mainly to two factors. These factors are the Board's funding requirements in the Appropriations bill and designated fees that the Board collected for programs designated by statute but not being fully provided to those programs. (The excess fees were going into the State's general revenue fund.) As a result of the budgetary needs and the designated funds, the net result is an adjustment in some of the fees.

No comments were received in response to the proposed amendments.

The amendments are adopted pursuant to the authority of Texas Occupations Code §301.151 and §301.152 which authorizes the Texas Board of Nursing to adopt, enforce, and repeal rules consistent with its legislative authority under the Nursing Practice Act.

#### §223.1. Fees.

(a) The Texas Board of Nursing has established reasonable and necessary fees for the administration of its functions.

- (1) Examination: \$100;
- (2) Endorsement: \$161;
- (3) Licensure renewal (each biennium):
  - (A) Registered Nurse (RN): \$67; and
  - (B) Licensed Vocational Nurse (LVN): \$58;
- (4) reactivating from inactive status:
  - (A) less than four years--\$10 plus current renewal fee;
  - (B) more than four years--\$20 plus current renewal fee;
- (5) late fee for reactivation from delinquent status:
  - (A) less than 90 days--\$60 plus current licensure renewal fee;
  - (B) more than 90 days--\$120 plus current licensure renewal fee;
- (6) duplicate or substitute license: \$25;
- (7) duplicate or substitute permanent certificate: \$25;
- (8) issuance of a temporary permit under §301.258: \$25;
- (9) approval of new nursing education programs: \$500;
- (10) verification of licensure: \$5;
- (11) verification of records: \$25;
- (12) bad checks: \$30;
- (13) Advanced Practice Nurse initial credentials: \$100;
- (14) declaratory order of eligibility: \$150;
- (15) eligibility determination: \$150;

(16) docketing fee in non disciplinary matters: \$600;

(17) Licensed Vocational Nurse, Retired; Registered Nurse, Retired; Volunteer Retired Vocational Nurse (VR-VN); Volunteer Retired Registered Nurse (VR-RN); Volunteer Retired Registered Nurse (VR-RN) with qualifications in a given advanced practice nurse role and specialty (e.g., VR-RN, FNP): \$10;

(18) Advanced Practice Nurse renewal: \$60;

(19) Initial Prescriptive Authority: \$50;

(20) outpatient anesthesia registry renewal: \$35;

(21) outpatient anesthesia inspection and advisory opinion: \$625;

(22) Federal Bureau of Investigations (FBI) and Department of Public Safety (DPS) criminal background check for licensees, initial licensure applicants and endorsement applicants: \$39; and

(23) Disciplinary monitoring fees as stated in a Board order.

(b) All fees are non-refundable.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 5, 2007.

TRD-200704096

Katherine Thomas

Executive Director

Texas Board of Nursing

Effective date: September 25, 2007

Proposal publication date: August 3, 2007

For further information, please call: (512) 305-6823

## TITLE 28. INSURANCE

### PART 2. TEXAS DEPARTMENT OF INSURANCE, DIVISION OF WORKERS' COMPENSATION

#### CHAPTER 137. DISABILITY MANAGEMENT SUBCHAPTER D. TREATMENT PLANNING

##### 28 TAC §137.300

The Commissioner of Workers' Compensation, Texas Department of Insurance, Division of Workers' Compensation (Division), adopts the repeal of §137.300, concerning required treatment planning. The repeal is adopted without changes to the proposal as published in the June 29, 2007, issue of the *Texas Register* (32 TexReg 3966).

Since publication of the adopted disability management rules in Chapter 137, Disability Management, which included §§137.1, 137.10, 137.100, and 137.300, workers' compensation system participants, including insurance carriers, health care providers, and associations, have expressed the need for additional time to establish systems and processes to appropriately address required treatment planning and to communicate and develop

treatment planning parameters that are effective, efficient, and workable.

The Division selected the most current edition of the Official Disability Guidelines-Treatment in Workers' Comp (ODG) published by the Work Loss Data Institute (WLDI), as the Division's treatment guidelines. Section 137.300 was adopted and applicable to health care provided on or after May 1, 2007. Subsequently, the Division adopted a rule amendment on an emergency basis to change the applicability dates for required treatment planning from health care provided on or after May 1, 2007 to health care provided on or after September 1, 2007. The emergency rule amendment was renewed and adopted to change the applicability date for required treatment planning from health care provided on or after May 1, 2007 to health care provided on or after October 1, 2007.

System participants have expressed ongoing concerns regarding the processes for required treatment plans, and urged delaying implementation of required treatment planning until a more methodical approach can be developed. Concerns expressed included the three day timeframe for issuing adverse determinations required by Texas Insurance Code, §4201.304(2). System participants asserted that three days is an insufficient amount of time to review a treatment plan, especially for treatment plans involving proposed treatment from multiple health care providers. In addition, stakeholders have concerns that the Independent Review Organization fee structure does not contemplate assignment of multiple reviewers, which may be needed for medical necessity review of treatment plans that address multiple types of services. Health care providers expressed concern regarding lack of a specific reimbursement structure for preparing and submitting treatment plans.

Therefore, in order to address these concerns and the concern that system participants would not be able to initiate the treatment planning requirements without some lapses in care for the injured employees, the Division repeals §137.300. Repeal of this section will allow the Division time to address concerns raised by system participants, and the opportunity to work further with system participants to develop required treatment planning guidelines that effectively achieve the goals and intent of the Legislature as defined in Labor Code §413.011. Treatment planning is an integral part of disability management and the Division has determined that working with system participants in a voluntary pilot treatment planning program would be a unique and useful tool in the development of effective parameters for required treatment planning. The Division intends to implement such a pilot project soon.

While the other disability management rules (§§137.1, 137.10, and 137.100) will continue in effect, the repeal of §137.300 removes the requirement that treating doctors develop and preauthorize treatment plans. Voluntary treatment planning remains an available option for health care providers when providing treatment and services in accordance with the treatment guidelines.

COMMENT: Commenter states that adherence to the ODG before treatment takes away the ability of the carriers to retrospectively review treatment that does not conform to the standards. Commenter stated that it should not be the responsibility of the carriers to ensure that health care providers conform to the ODG. Commenter is concerned that some preauthorization treatments are exceeding what is requested and that initial treatment that corresponds to the ODG will later vary off track and the carrier will not have the ability to correct this until it receives notice months

later. Commenter recommends leaving preauthorization and retrospective review in place instead of enacting adherence to ODG treatment before the fact through the preauthorization process.

AGENCY RESPONSE: The Division notes this rulemaking activity addresses the repeal of §137.300, relating to Required Treatment Planning, and does not encompass concerns regarding other rule provisions, which are beyond the scope of this rule repeal. The proposed repeal of the treatment planning requirement is a result of expressed concerns that system participants would not be able to initiate the treatment planning requirements without some lapses in care for injured employees. The Division acknowledges that without the treatment planning rule, adhering to the ODG will create an increase in preauthorization requests; however, the repeal does not change the preauthorization process as established in §134.600, relating to Preauthorization, Concurrent Review, and Voluntary Certification of Health Care. To better address all of the concerns regarding preauthorization requests and treatment planning, the Division is working with stakeholders to initiate a treatment planning pilot project with specific parameters, time frames and outcome measures. The pilot project will be voluntary and is planned to be consistent with the voluntary certification statutory and regulatory requirements. Concurrent with the pilot project, the Division will form a working group interested in providing input on a "packet" of rules, including a new treatment planning rule, a revised preauthorization rule and a case management rule.

COMMENT: Commenter objects to the repeal of the treatment planning rule prior to adoption of a new treatment planning rule stating that this will result in ineffective and piecemeal medical care due to miscommunication. Commenter thinks that the large increase in services undergoing preauthorization will result in an increase in administrative burdens for health care providers and medical disputes that will only further compound delays in delivery of necessary medical care. Commenter urges the adoption of all five parts of disability management at one time with an extended effective date (treatment planning, treatment guidelines, return to work guidelines, treatment protocols, and case management rules) so that system participants will be able to make business process improvements to fully implement disability management. Commenter believes this will allow system participants to provide more informed feedback.

AGENCY RESPONSE: The Division disagrees with not repealing the treatment planning rule prior to adoption of a new treatment planning rule, and further disagrees with adopting all the rules associated with disability management at one time. System participants have expressed ongoing concerns regarding the processes for required treatment plans, and urged delaying implementation until a more methodical approach is demonstrated through a pilot project. Concerns expressed include the three-day timeframe for issuing adverse determinations required by Insurance Code, §4201.304(2). System participants stated that three days is an insufficient amount of time to review a treatment plan, especially for treatment plans involving proposed treatment from multiple health care providers. In addition, the Independent Review Organization fee structure does not contemplate assignment of multiple reviewers which may be needed for medical necessity review of treatment plans that address multiple types of services. Health care providers expressed concern regarding lack of a specific reimbursement structure for preparing and submitting treatment plans. Although repeal of this rule will result in an interim period of increased preauthorization requests, the Division agrees with the recommendations made by system participants to further explore the treatment planning



process prior to future rule making. While the Division works with system participants on the pilot project and a review of current preauthorization rule requirements, focus will include education to minimize confusion and miscommunication.

COMMENT: Commenter asserts that §137.300 would reduce carrier costs significantly (due to allowing bundling of many services in a single preauthorization request) and a treatment planning rule is vital to the efficient working of the system. Commenter believes that due to the 2007 legislative changes providing for reviews of IRO denials to be reviewed locally, it will be more convenient for claimants to participate, thus increasing disputes and adding more costs to the system. Commenter asserts that for relatively inexpensive services that are inconsistent with the treatment guidelines, the carriers will expend huge sums to ensure that the claimant receives only treatment that is appropriate to the injury and the sums will likely exceed the cost of the treatment. Commenter agrees with those that contend that preauthorization of a treatment plan will take more than three days to complete and recommends any future rule provide an expanded period of time to allow for negotiation of services, review of records, and require that the requestor ensure that the utilization review agent has all the relevant records. Commenter supports the repeal of this rule if a process is quickly implemented that addresses these concerns. Commenter provides a number of suggestions for development of a new treatment planning process.

AGENCY RESPONSE: The Division agrees that there are numerous reasons why a treatment planning rule is vital for a successful, efficient, and cost effective system. However, system participants have expressed ongoing concerns regarding the processes for required treatment plans, and have urged delaying the current rule's implementation until a more methodical approach is demonstrated through a pilot project. Although repeal of this rule will result in an interim period of increased preauthorization requests and associated costs, the Division agrees with the recommendations made by system participants to further explore the treatment planning process prior to future treatment planning rulemaking, and welcomes further input. The Division notes that voluntary treatment planning is always available to system participants who wish to avoid multiple preauthorization requests. Insurance Code, §4201.304(2) states that notification of adverse determination shall be provided by the utilization review agent "within three working days in writing to the provider of record and the patient." This time frame cannot be lengthened by rule and therefore must be considered in developing workable treatment planning provisions. Further development of the treatment planning process and a review of the current preauthorization rule requirements will begin and progress as Division resources allow.

COMMENT: Commenter states that the repeal of the treatment planning rule will provide time for a treatment planning pilot project to allow the Division's Medical Advisor and staff to identify opportunities for improved communication and efficient delivery of appropriate medical care. Commenter requests that the Division post on the website an overview of the treatment planning pilot project that includes the dates the pilot project will be undertaken, and that the meetings on treatment planning and the pilot project be announced and open to the public.

AGENCY RESPONSE: The Division agrees that repeal of §137.300 will allow time to implement a pilot project that will result in an improved, permanent rule for treatment planning. The Division agrees that system participants will benefit from

posted information on the Division's website pertinent to the pilot project, and intends to make such information available.

COMMENT: Commenter opposes repeal of §137.300, but recommends delay of implementation of the rule to May 1, 2008, while working out the logistical issues. Commenter suggests initiating a treatment planning pilot project on September 1, 2007, to acquire data to be used in refining key components of the rule and in the interim implementing treatment planning under a voluntary certification model.

AGENCY RESPONSE: The Division disagrees with commenter's recommendation to delay implementation of §137.300 until May 1, 2008. The Division agrees with commenter's suggestion of implementing a treatment planning pilot program and will use the knowledge gained from that pilot program to redraft a permanent treatment planning rule that would be proposed at a later date. Concurrent with the pilot project, the Division will form a working group interested in providing input on a "packet" of rules, including a new treatment planning rule, a revised preauthorization rule and a case management rule. Time is needed to initiate a pilot project and to obtain data from the program before establishing a future permanent treatment planning rule adoption date.

For: Insurance Counsel of Texas.

For, with changes: Flahive, Ogden & Latson, Attorneys at Law.

Against: Cambridge Integrated Services Telephonic Case Managers, Office of Injured Employee Counsel, and Somi Healthlink, LLC.

The repeal is adopted pursuant to Labor Code §§413.011(e), 413.011(g), 401.011, 413.021, 409.005, 408.023, 408.025, 413.017, 413.018, 413.013, 408.021, 402.00111, and 402.061. Section 413.011(e) provides that the Commissioner by rule shall adopt treatment guidelines and return-to-work guidelines and may adopt individual treatment protocols. Section 413.011(g) provides that the Commissioner may adopt rules relating to disability management that are designed to promote appropriate health care at the earliest opportunity after the injury to maximize injury healing and improve stay-at-work and return-to-work outcomes through appropriate management of work-related injuries or conditions. Section 401.011 contains definitions used in the Texas workers' compensation system (in particular, §401.011(18-a), the definition of "evidence-based medicine," §401.011(22-a), the definition of "health care reasonably required" and §401.011(42), the definition of "treating doctor"). Section 413.021 requires an insurance carrier, with the agreement of a participating employer, to provide the employer with return-to-work coordination services as necessary to facilitate an employee's return to employment. Section 409.005 provides the procedure for filing a report of injury, the format to be used, authorizes the adoption of rules regarding the information that must be included in the report, and requires the employer to notify the employee, the treating doctor, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the employer. Section 408.023(m) authorizes the Commissioner to adopt rules to define the role of the treating doctor and to specify outcome information to be collected for a treating doctor. Section 408.025(a) authorizes the Commissioner by rule to adopt requirements for reports and records that are required to be filed with the Division or provided to the injured employee, and subsection (c) provides that the treating doctor is responsible for maintaining efficient utilization of health care. Section

413.017 provides that certain medical services are presumed reasonable. Section 413.018(a) states that the Commissioner by rule shall provide for the periodic review of medical care provided in claims in which guidelines for expected or average return to work time frames are exceeded and subsection (b) states that the Division shall review the medical treatment provided in a claim that exceeds the guidelines and may take appropriate action to ensure that necessary and reasonable care is provided. Section 413.013 authorizes the Commissioner by rule to establish programs for prospective, concurrent, and retrospective review and resolution of disputes regarding health care treatments or services, for the systematic monitoring of the necessity of treatments administered and fees charged and paid for medical treatments to ensure that the medical policies or guidelines are not exceeded, to detect practices and patterns by insurance carriers, and to increase the intensity of review for compliance with the medical policies or fee guidelines. Section 408.021(a) and (a)(3) state that an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed which specifically includes health care that enhances the ability of the employee to return to or retain employment and subsection (c) states that, except in an emergency, all health care must be approved or recommended by the employee's treating doctor. Section 402.00111 provides that the Commissioner of Workers' Compensation shall exercise all executive authority, including rulemaking authority, under Labor Code Title 5. Section 402.061 states that the Commissioner of Workers' Compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 10, 2007.

TRD-200704165

Norma Garcia

General Counsel

Texas Department of Insurance, Division of Workers' Compensation

Effective date: September 30, 2007

Proposal publication date: June 29, 2007

For further information, please call: (512) 804-4715



## **TITLE 30. ENVIRONMENTAL QUALITY**

### **PART 1. TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

#### **CHAPTER 30. OCCUPATIONAL LICENSES AND REGISTRATIONS**

The Texas Commission on Environmental Quality (TCEQ or commission) adopts the repeal of §§30.28, 30.125, 30.210, 30.246, 30.318, 30.319, 30.349, and 30.399; new §§30.28, 30.210, 30.213, 30.214, 30.319, and 30.500 - 30.508; and amendments to §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.212, 30.231, 30.240, 30.242, 30.244,

30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.337, 30.340, 30.342, 30.350, 30.355, 30.381, 30.387, 30.390, 30.392, and 30.400.

Sections 30.3, 30.14, 30.18, 30.20, 30.30, 30.33, 30.51, 30.60, 30.81, 30.90, 30.92, 30.111, 30.120, 30.122, 30.129, 30.171, 30.180, 30.185, 30.190, 30.192, 30.201, 30.210, 30.212, 30.214, 30.231, 30.240, 30.242, 30.244, 30.245, 30.247, 30.261, 30.270, 30.272, 30.274, 30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.319, 30.337, 30.340, 30.342, 30.381, 30.387, 30.390, 30.392, 30.400 and 30.500 - 30.508 and the repeals are adopted *without changes* to the proposed text and will not be republished. Sections 30.5, 30.7, 30.10, 30.24, 30.28, 30.213, 30.350, and 30.355 are adopted *with changes* to the proposed text as published in the April 13, 2007 issue of the *Texas Register* (32 TexReg 2093).

#### **BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES**

During the 77th Legislature, 2001, Regular Session, House Bill (HB) 3111 was passed which created Texas Water Code (TWC), Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the TCEQ. In December 2001 agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session, related to on-site sewage facility maintenance providers. The adopted repeals, new additions, and amendments are necessary to ensure consistency between the rules and their applicable statutes. The adopted amendments make grammatical and punctuational corrections and incorporate language modifications needed to improve readability and enhance enforceability. The adopted amendments also provide consistency and further establish uniform procedures for issuing and renewing licenses, setting terms and fees, approving training and training providers, and enforcing licensing requirements. Additionally, the adopted amendments remove any requirements or references to dates that are no longer applicable.

The adopted rules modify provisions to allow for the approval of training providers who offer training and certification of Visible Emissions Evaluators; establish fees for reviewing and processing applications received for approval of training; address requirements for Web-based testing for licensure; address the license renewal requirements for individuals on active military duty outside Texas; adjust the current fees for obtaining initial and renewing licenses and registrations; change the validity period of two-year licenses and registrations to three years; adjust the training credit hour requirements for Customer Service Inspectors; remove the licensing requirement for individuals who supervise or manage the collection or transportation of municipal solid waste; establish the level of license required to operate specific types of municipal solid waste facilities; add a transitional period to eliminate the municipal solid waste Class D license and provisional or solid waste facility supervisor in training letters; and remove the definition of process control duties for public water system operators from the Chapter 30 rules and transfer the definition to the public drinking water rules located in 30 TAC Chapter 290.

#### **SECTION BY SECTION DISCUSSION**

### *Subchapter A. Administration of Occupational Licenses and Registrations*

The adopted amendments to §30.3, Purpose and Applicability, remove §30.3(b), which is no longer applicable because it applies to applications for the issuance or renewal of licenses or registrations that are received on or after January 1, 2002, and states that maintenance providers are not required to obtain a registration as a maintenance provider prior to September 1, 2006. The amendments also add visible emissions evaluator training providers to the list of programs the agency currently administers. Changes in the numbering to this provision are adopted where necessary to reflect the changes.

Section 30.5 is adopted with a change to the proposed text. The adopted amendments to §30.5, General Provisions, add Texas Occupations Code (TOC), §1903.251 and §1904.051 to the list of statutes that describe activities that are regulated by the commission. The amendment to include TOC, §1904.051 was necessary because of the change of authority for certification of Water Treatment Specialists from Texas Health and Safety Code (THSC), Chapter 341, Subchapter G, to Subtitle A, Title 12, TOC, redesignated as TOC, Chapter 1904, in accordance with House Bill 3017, 80th Legislature, 2007, Regular Session. House Bill 3017 was effective immediately. The change was not part of the proposal. The adopted amendments to §30.5, also remove the reference to TWC, §34.007, which no longer exists. Additionally, the commission adopts changes to this section to improve its readability and enhance its enforceability.

The adopted amendments to §30.7, Definitions, adds the following definitions to the rules for clarity: Conference, Distance learning, Distributor, High school diploma or equivalent certificate, Industry related association, Manufacturer, Qualified classroom instructor, Service provider, Subject matter expert, Technology-based training, and Training provider. Changes in the numbering to this provision are adopted where necessary to reflect the changes. Section 30.7 is adopted with a change to the proposed text. In response to video conferencing the term "interactive video conference" was added to the definition of conference contained in §30.7(3). In response to a comment regarding the definition of subject matter expert contained in §30.7 the terms "minimum of three years" and "as relates to the training" have been added to §30.7(16).

The adopted amendments to §30.10, Administration, add the duty of approving training providers to the executive director's responsibilities. The adopted amendments also require the executive director to respond to complaints filed against training providers. This adopted change is under TWC, §37.008. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.14, Applications for Initial Registrations, add §30.14(e) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite as a violation. The commission adopts additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.18, Applications for an Initial License, add §30.18(f) to require that all statements, qualifications, and attachments that are provided by the applicant and that relate to an application shall be true, accurate, complete, and contain no willful or negligent misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite as a violation. The commission adopts additional language in this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.20, Examinations, add §30.20(c) - (h) to clarify the existing requirements for individuals who need to take repeat examinations. Additionally, the commission adopts §30.20(l) to allow individuals who may be precluded from taking an examination scheduled to be administered by the agency on a religious holy day to take the examination on an alternate date set by the executive director. This addition is necessary to comply with TOC, §54.002(a). Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendments to §30.24, License and Registration Applications for Renewal, are required by TOC, §55.002, and add §30.24(f) - (i), to allow individuals who fail to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state to renew their license within 180 days of that individual's return from active duty and exempt that individual from any increased fee or penalty if the individual establishes that he/she was on active duty in the United States armed forces and serving outside this state during the renewal period of their license.

The adopted addition to §30.24(c), requires all statements, qualifications, and attachments that are provided by the applicant and that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification. This adopted change is necessary because, currently, if an individual is not truthful or provides false information on an application, there is no specific provision the executive director can cite to as a violation. The commission adopted additional language in this subsection to improve its readability, and enhance its enforceability. The addition of §30.24(p), is adopted to clarify what will occur when an individual fails to correct deficiencies in a renewal application after the individual is sent a notification of the deficiencies by the executive director. The adopted amendments also remove the existing §30.24(f), as there is no statutory authority for this subsection. The commission adopted additional language to this subsection to improve its readability, and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes. To eliminate the contradiction between §30.24(a) and (e) the phrase ". . . an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration" has been added to §30.24(a). The change was not part of the proposal.

The adopted repeal of §30.28, Approval of Training, deletes this section in its entirety and replaces it with new §30.28, that incorporates basic components of the agency's existing regulatory guidance document, RG-373, that relates to the approval of training used to meet pre-licensing requirements and post-licensing continuing education requirements for occupational licenses and registrations. This incorporation provides a mech-

anism to implement and enforce the requirements of the most crucial activities that are performed by training providers. The adopted new section also establishes fees for reviewing and processing applications for training program approval that are received by the commission. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Section 30.28 is adopted with several changes to the proposed text. In response to a comment regarding the use of the term "training course", that term has been changed throughout §30.28 to the terms "training event" or "training." In response to a comment regarding the term "attendance" used in §30.28 being vague, the term has been changed to "successful completion" where applicable throughout §30.28. In response to a comment that TCEQ should formalize its in-house performance standards for the length of time it takes staff and the methods by which the staff approves or disapproves training proposals ensuring uniform treatment of various training providers; the following provisions were added to the rule to provide clarity regarding the commission's approval standards: §30.28(a)(1) "Within 45 days of the receipt of an application for approval for conferences, and association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation" and §30.28(a)(2) "Within 120 days of the receipt of an application for approval for classroom, distance learning training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation." Additionally, the term ". . . at least 30 days. . ." contained in §30.28(o)(2) was changed to ". . . at least 45 days. . ." to provide consistency with §30.28(a)(1). In response to a comment that "qualified subject matter expert" needed to be defined; to make the term consistent with the definition of "subject matter expert" contained in §30.28(16), the word "qualified" was removed from the phrase where applicable throughout §30.28. In response to a comment regarding §30.28(i)(4), the word "liable" is replaced with the word "responsible." In response to a comment that §30.28(i)(10) and §30.28(p)(3)(C) were inconsistent with repeating training within the current renewal period; the sections now allow repeating a course, but prohibit training credits to be earned if the same distance learning course is repeated in the current renewal period. A change was made to §30.28(i)(13) in response to a comment that clarification was needed for the number of days allowed to submit training rosters; the word "business" was added to provide clarity. A change was made to §30.28(l) in response to a comment that clarification was needed regarding "occupational training is not to be used as an opportunity for advertisement." The word "single" was removed from the term ". . . of a single manufacturer, distributor. . .", the phrase "or used as an opportunity for advertisement" was also added to the provision for clarity. In response to a comment that §30.28(n) and (o) were not consistent with other provisions in the rule addressing "occupational training is not to be used as an opportunity for advertisement", the provision "the training at association meetings must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license" was added. A change was made to §30.28(o) in response to a comment that the term "training event" was unclear; the term has been changed to "training at meetings. . . ." In response to a comment that questioned what the word "exceptional" means in the context of §30.28(p)(1)(D); to provide clarity the word "exceptional" was removed. A change was made to §30.28(p)(3)(B) in response to a comment that the term "timely" was vague; to pro-

vide clarity, the term has been changed to "within one business day." The term "timely" was removed and the term "one business day" was added to §30.28(r)(4) to provide consistency. A change was made to §30.28(s) in response to a comment that the term "printed course information. . ." was vague and unclear; the term has been changed and the section now includes language that "training materials. . ." The phrase "current technical standards or rules" was replaced with "accepted industry standard practices or agency rules" in response to a comment requesting clarity to §30.28(w)(3)(A). In response to a comment regarding the criteria for recalling training, the phrases "recall" and ". . . but not limited to. . ." have been added to §30.28(w)(3). A change was made to §30.28(w)(3)(F) in response to a comment that clarification was needed regarding "occupational training is not to be used as an opportunity for advertisement." The word "single" was removed from the term ". . . of a single manufacturer, distributor. . ."

The adopted amendments to §30.30, Terms and Fees for Licenses and Registrations, adjusts those licenses or registrations that have a two-year validity period to have a three-year validity period. This change provides consistency among all licensing programs that are administered by the agency. The adopted amendments also adjust the license fee from \$35 per year to \$37 per year. The adopted fee adjustment covers the cost for the license renewal process through TexasOnline (TxOnline). TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. Additionally, Texas Government Code (TGC), §2054.111, authorizes the commission to collect subscription fees charged by TxOnline.

The adopted amendment to §30.33, License or Registration Denial, Warning, Suspension, or Revocation, removes §30.33(a)(1)(B) and creates §30.33(a)(2)(G), because the denial of a renewal application for this situation must allow the individual the opportunity for a hearing. The adopted amendments also add provisions to allow the commission to suspend a license or registration if an individual is identified by the Office of the Attorney General as being delinquent on child support payments. This change will make the rules consistent with the Texas Family Code, Chapter 232 and TWC, §7.303. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

#### *Subchapter B. Backflow Prevention Assembly Testers*

The adopted amendment to §30.51, Purpose and Applicability, deletes §30.51(c) in its entirety. This section allows individuals to transition their backflow prevention assembly tester accreditation to a license. This language is no longer applicable.

The adopted amendments to §30.60, Qualifications for Initial License, add language to clarify and specify the duties the executive director will accept as approved areas of work to gain the experience necessary to obtain a Backflow Prevention Assembly Tester license. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

#### *Subchapter C. Customer Service Inspectors*

The adopted amendment to §30.81, Purpose and Applicability, changes the term "may" to "shall," to enhance the enforceability of the rules.

The adopted amendments to §30.90, Qualifications for Initial License, restructure the section to improve its readability.

Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendment to §30.92, Qualifications for License Renewal, adjusts the continuing education requirements for customer service inspectors from 24 hours to 16 hours. Based on input from the regulated community and agency staff assessment, it was determined that 16 hours is sufficient for the three-year validity period. This adjustment still provides sufficient continuing education necessary to protect the environment and public health.

#### *Subchapter D. Landscape Irrigators and Installers*

The adopted amendment to §30.111, Purpose and Applicability, deletes §30.111(c) in its entirety. This section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.120, Qualifications for Initial License, modifies the existing language to improve its readability and enhance its enforceability.

The adopted amendments to §30.122, Qualifications for License Renewal, remove the reference to January 1, 2002, which is no longer applicable. The adopted amendments also adjust the number of training credits required to renew landscape irrigator licenses from 16 hours to 24 hours. This change is necessary because of the adopted amendment to the rules that adjust the validity period of the licenses from two years to three years.

The adopted repeal of §30.125, Renewal of Certificates of Registrations, deletes this section in its entirety. This section contains language to transition the landscape irrigator and installer licenses from one-year to two-year licenses, and is no longer applicable.

The adopted amendment to §30.129, Exemptions, modifies some of the existing language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

#### *Subchapter E. Leaking Petroleum Storage Tank Corrective Action Project Managers and Specialists*

The adopted amendment to §30.171, Purpose and Applicability, deletes subsection (d) in its entirety. This section allows registrations issued before January 1, 2002, to remain in effect until they expire, or are replaced or revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.180, Qualifications for Initial License, changes the term "preceding" to "previous." This change provides consistency throughout this section.

The adopted amendment to §30.185, Qualifications for License Renewal, changes the number of training credits required to renew a license to 32 hours, instead of 16 hours, as is currently required by §30.185(a)(2). This adopted change also corrects a typographical error that exists in the current provision. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.190, Qualifications for Initial Registration, clarifies the amount of liability insurance required and changes the term "preceding" to "previous." This change provides consistency throughout this section. Additionally, the adopted amendment adjusts the initial registration fee from \$150

to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The adopted amendment to §30.192, Qualifications for Registration Renewal, adjusts the renewal registration fee from \$150 to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

#### *Subchapter F. Municipal Solid Waste Facility Supervisors*

The adopted amendment to §30.201, Purpose and Applicability, revises §30.201(a) and (b) to eliminate licensing requirements for individuals who supervise the collection or transportation of municipal solid waste (MSW). This adopted amendment is necessary to make the rule consistent with THSC, §361.027.

The adopted amendment to §30.201, modifies §30.201(c), to remove the January 1, 2004, date referenced because it is no longer applicable. The adopted amendments to this section also establish a transition period to eliminate the issuance of provisional or solid waste facility supervisor in training letters. This change is necessary because under the current rules, individuals who have been issued provisional or supervisor-in-training letters perform the same duties as those individuals that hold standard licenses, and those individuals may not have met the educational or experience requirements for a standard license. The adopted rules include a transitional period to allow individuals and facilities to comply with the new rules.

The adopted amendment to §30.201, adds §30.201(d), eliminates the issuance of Class D MSW supervisor licenses and establishes a date when new applications for the Class D license not be accepted. Class D issued licenses will remain in effect until they expire.

The adopted repeal of §30.210, Qualifications for Initial License, deletes the section in its entirety. The adopted new §30.210, Qualifications for Initial License, specifies the education, work experience, and training credits for each license class in a tabular format for clarity and conciseness. The adopted new section also removes the applicant qualifications for obtaining a Class D license because this class of licenses is being eliminated.

The adopted amendment to §30.212, Qualifications for License Renewal, eliminates the training credit requirements for a Class D license because this class of licenses is being eliminated. Changes in the numbering to this section have been adopted where necessary to reflect the changes and improve readability.

The commission adopts new §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required, to specify the different classes of licenses that supervisors are required to obtain based on the complexity of municipal solid waste operations. The commission adopts that: a Class A license be required for Type I landfills and Type IX landfill mining operations; a Class B license be required for Type IV landfills, Type V stor-

age and processing facilities, other Type IX energy or material recovery facilities, and permitted compost facilities; and a Class C license be required for Type I and Type IV landfills that qualify for the arid exemption specified in §330.5(b) (relating to Classification of Municipal Solid Waste Facilities). The adopted new section also includes the effective date for facilities to comply with the requirements of §30.213. Further, the adopted addition of §30.213(b), allow the facility's permit to supersede the requirements of §30.213(a). Adopted §30.213(a), requires that each MSW facility employ at least one licensed individual who supervises or manages the operations of a MSW facility and is licensed according to this chapter. In response to a comment, §30.213(a) has been revised to group licensing requirements by similar facility type, the license level for registered compost facilities has changed from Class C to Class B and the license level for Type IAE landfill facilities has changed from Class C to Class A. The commission believes that the adopted change from the proposed text will add clarity to the rule. Also in response to comment, the September 1, 2008 the implementation date for MSW facilities to have the correct level of licensed supervisor has been changed to September 1, 2009. The commission believes that the additional time will ensure adequate time for the facilities to have personnel properly trained and at the correct license levels.

The commission adopts new §30.214, Exemptions, to exempt individuals who perform relatively low-risk MSW management activities that are related to Type IX beneficial landfill gas recovery facilities, animal crematories, dual chamber incinerators, and air curtain incinerators operating in accordance with an MSW permit by rule from the applicable licensing requirements.

*Subchapter G. On-Site Sewage Facilities Installers, Apprentices, Designated Representatives, Maintenance Providers, and Site Evaluators*

The adopted amendment to §30.231, Purpose and Applicability, deletes subsection (d), in its entirety. This subsection allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable. Changes in the numbering to this section have been adopted where necessary to reflect the changes and improve readability.

The adopted amendment to §30.240, Qualifications for Initial License, adjusts the requirements for obtaining an Installer II license from holding an Installer I license for six months and possessing an apprentice registration for at least one year before June 13, 2001, to holding an apprentice license for at least two years or previously possessing an Installer II license. The adopted amendments modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.242, Qualifications for License Renewal, adjusts the number of continuing education hours required to renew On-Site Sewage Facility program licenses from 16 hours to 24 hours. This change is necessary because of the adopted amendment to the rules that adjust the validity period of the licenses from two years to three years. The adopted change also removes the second sentence from §30.242(a)(2), regarding Site Evaluator licenses issued prior to August 1, 2004, as it is no longer applicable.

The adopted amendment to §30.244, Exemptions, adds language to §30.244(c) that was repealed from §30.246 which allows a professional engineer to perform site evaluations with-

out obtaining a site evaluator license and provides the individual the option to obtain a site evaluator license by complying with the requirements in Subchapter G.

The adopted amendments to §30.245, Registration of Apprentices, modify and add to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes. Additionally, the adopted amendment adjusts the initial registration fee for On-Site Sewage Facility (OSSF) apprentices from \$50 to \$81. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline.

The adopted repeal of §30.246, Application for Site Evaluator, deletes this section in its entirety. This section pertains to individuals who previously held a site evaluator license or had previously taken the site evaluator basic training course and passed the site evaluator examination, but did not hold a site evaluator license or meet the requirements necessary to obtain a site evaluator license before September 1, 2003, and it is no longer applicable.

The adopted amendment to §30.247, Registration of Maintenance Providers, adjusts the registration validity period from two years to three years and adjusts the current \$70 initial registration and renewal fee to \$111. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. These adopted changes provide consistency between all licensing programs.

*Subchapter H. Water Treatment Specialists*

The adopted amendment to §30.261, Purpose and Applicability, removes §30.261(c), because this section allows licenses and certificates of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.270, Qualifications for Initial License, reformats the current table that outlines the requirements for obtaining a water treatment specialist license. This change improves the readability of the rule.

The adopted amendment to §30.272, Qualifications for License Renewal, simplify the existing table for the training and experience requirements.

The adopted amendment to §30.274, Classification of Licenses, modifies and adds to the current rule language to clarify, improve its readability, and enhance its enforceability. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

*Subchapter I. Underground Storage Tank On-Site Supervisor Licensing and Contractor Registration*

The adopted amendment to §30.301, Purpose and Applicability, removes §30.301(c), which allows licenses and certificates

of registrations issued before January 1, 2002, to remain in effect until they expire or are revoked by the commission. This language is no longer applicable.

The adopted amendment to §30.307, Definitions, changes the terminology used in §30.307(6)(A) - (C) from "License" to "Class." This change provides consistency throughout this subchapter.

The adopted amendment to §30.310, Qualifications for Initial License, modifies and adds to the current rule language to improve its readability and enhance its enforceability. Changes in the numbering to this provision have been adopted where necessary to reflect the changes.

The adopted amendment to §30.312, Qualifications for License Renewal, removes the reference to January 1, 2002, which is no longer applicable.

The adopted amendments to §30.315, Qualifications for Initial Registration, adjust the initial registration fee from \$150 to \$232. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing license and registration requirements issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The adopted changes also provide clarity to the amount of liability insurance required and change the term "preceding" to "previous." This provides consistency throughout this subchapter.

The adopted amendments to §30.317, Qualifications for Registration Renewal, remove the reference to January 1, 2002, which is no longer applicable. The adopted changes also adjust the renewal registration fee from \$150 to \$232. The adopted fee adjustment reflects the registration validity period going from two years to three years and is necessary to cover the cost for the license renewal process through TxOnline. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations that are issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. The adopted changes provide clarity to the amount of liability insurance to be held by the registrant and change the term "preceding" to "previous." This provides consistency throughout this subchapter.

The adopted repeal of §30.318, Renewal of Licenses and Registrations Issued before the Effective Date of these Rules, removes this section in its entirety as it is no longer applicable.

The adopted repeal of §30.319, Exemptions, deletes the section in its entirety and replaces it with the new §30.319, which modifies the current structure of the section to improve its readability.

#### *Subchapter J. Wastewater Operators and Operations Companies*

The adopted amendment to §30.337, Definitions, is reflected in §30.337(8), by changing the term "frequent" to "daily." This adopted change specifies when operators will provide on-site inspections and supervision. Additionally the adopted amendment to §30.337(12), modifies the definition to include decisions associated to process control.

The adopted amendment to §30.340, Qualifications for Initial License, modifies and adds to the current rule language to clarify

it, in regard to the substitution of college hours for required work experience.

The adopted amendment to §30.342, Qualifications for License Renewal, modifies and adds to the current rule language to improve its readability regarding the amount of training credits needed for the renewal of a license.

The adopted repeal of §30.349, Registration Fees, deletes the section in its entirety and instead incorporates these same requirements into §30.355. This clarifies and improves the readability of the subchapter.

The adopted amendment to §30.350, Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required, modifies and adds to the current rule language to improve its readability and enhance its enforceability with regard to the duty requirements of the licensed individuals. Changes in the numbering to this section have been adopted where necessary to reflect the changes. Section 30.350(a) is adopted with changes in the text in response to comments about the applicability of the word "daily." To provide clarity and identify the functions to be completed on a daily basis the sentence "Wastewater collection system operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator" was added to the text contained in §30.350(n).

The adopted amendments to §30.355, Additional Requirements for Wastewater Operations Companies, incorporate the requirements from adopted repealed §30.349, Registration Fees, and clarify and improve the readability of the subchapter. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations requirements issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other adopted amendments to this section change the requirement of companies that submit yearly reports to a requirement that they submit a report at the time of renewal or when a company is bought or sold and the name of the company changes. The adopted changes also decrease the amount of information that has to be reported by the companies. Some of the information that is currently being reported is information the commission already has and the effort is being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and renewals. This adopted change lessens the burden on both the companies and the commission. Section 30.355(b) is adopted with changes to the proposed text in response to comment suggesting that the commission should delete the phrase "wastewater system operations company." The commission recognized that clarity could be added to §30.355(b) and has modified the sentence to read "A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes."

#### *Subchapter K. Public Water System Operators and Operations Companies*

The adopted amendment to §30.381, Purpose and Applicability, adds the term "operator" to clarify §30.381(c).

The adopted amendments to §30.387, Definitions, remove the definition of "Process control duties." The Water Supply Divi-

sion's Public Drinking Water Section agrees that this definition is best addressed by the Chapter 290 rules. The Water Supply Division's Public Drinking Water Section is currently revising the Chapter 290 rules and will incorporate this definition into their rules. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendments to §30.390, Qualifications for Initial License, modify and add to the current rule language to provide clarity, improve readability, and enhance enforcement. The adopted changes also modify the current tables that outline the requirements for obtaining and renewing a water operator license to reflect changes to the number of training credits needed for each level of license. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted amendment to §30.392, Qualifications for License Renewal, modifies and adds to the current rule language to clarify, improve the readability, and enhance enforcement with regard to the duties of the licensed individuals. Changes in the numbering to this section have been adopted where necessary to reflect the changes.

The adopted repeal of §30.399, Registration Fees, deletes the section in its entirety and incorporates the requirements into §30.400. This clarifies and improves the readability of the subchapter.

The adopted amendments to §30.400, Additional Requirements for Public Water System Operations Companies, incorporate the requirements from adopted repealed §30.399, Registration Fees, into this section and clarify and improve the readability of the subchapter. The adopted fee adjustment includes the cost for the TxOnline subscription fees and the increase from a two-year to a three-year validity period for registrations. TWC, §37.009, authorizes the commission to establish and collect fees to cover the cost of administering and enforcing licenses and registrations issued under Chapter 30. TGC, §2054.111, also authorizes the commission to collect subscription fees charged by TxOnline. Other adopted amendments to this section change the requirement of companies that submit yearly reports to a requirement that they submit a report at the time of renewal or when a company is bought or sold and the name of the company changes. The adopted changes also decrease the amount of information that has to be reported by the companies. Some of the information being reported is information the commission already has on file and the efforts are being duplicated. Additionally, it was determined that it would be more feasible to have the companies submit the reports at the time of their initial registrations and renewals. This adopted change lessens the burden on both the companies and the commission.

#### *Subchapter L. Visible Emissions Evaluator Training and Certification*

The adopted Subchapter L establishes qualifications to train and certify visible emissions evaluators.

The adopted new §30.500, Purpose and Applicability, establishes standards and qualifications for persons who train and certify visible emissions evaluators.

The adopted new §30.501, Definitions, establishes the definition of terms used in Subchapter L that are related to visible emissions evaluator training.

The adopted new §30.502, Term for Visible Emission Evaluator Certification, establishes the validity period for visible emissions evaluator certifications.

The adopted new §30.503, Visible Emission Evaluator Course Training Material and Course Approval, establishes the requirements necessary to have visible emissions evaluator training approved by the executive director.

The adopted new §30.504, Visible Emission Evaluator Training Provider Approval, establishes the requirements necessary to obtain executive director approval to be a visible emissions evaluator training provider.

The adopted new §30.505, Requirements for Visible Emission Evaluator Training Providers, establishes the duties required of visible emissions evaluator training providers.

The adopted new §30.506, Visible Emission Evaluator Training Requirements, establishes the requirements for the methods used for presenting training to visible emissions evaluators.

The adopted new §30.507, Field Training and Testing Requirements, establishes the requirements for the methods used in the field training and testing of visible emissions evaluators.

The adopted new §30.508, Disapproval of Visible Emission Evaluator Course Training, establishes the criteria to be used by the executive director in disapproving visible emissions evaluator training courses.

#### **FINAL REGULATORY IMPACT ANALYSIS DETERMINATION**

The commission reviewed this rulemaking action in light of the regulatory analysis requirements of TGC, §2001.0225, and determined that the adopted rules are not subject to that statute. TGC, §2001.0225 applies only to rules that are specifically intended to protect the environment, or reduce risks to human health from environmental exposure. During the 77th Legislature, 2001, Regular Session, HB 3111 was passed which created TWC, Chapter 37 to consolidate administrative requirements and establish uniform procedures for the occupational licensing and registration programs administered by the TCEQ. In December 2001, agency rules were adopted which consolidated the ten occupational licensing programs into Chapter 30. Since their adoption, there have been no major reviews or changes to the rules with the exception of implementation of HB 2510, 79th Legislature, 2005, Regular Session. The specific intent of the adopted rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter's readability and enhance its enforceability. Protection of human health and the environment may be a by-product of the adopted rules, but it is not the specific intent of the rules. Furthermore, the adopted rules implement new regulations for the agency's licensing and registration programs and impose additional cost requirements that are necessary to ensure more consistent operation and enforcement among the licensing and registration programs that the agency administers, and would not adversely affect, in a material way, the economy, a section of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state, because the adopted rules only make the existing rules for all of the licensing and registration programs more consistent and formalize many existing industry practices and procedures into rule-form. Thus, the adopted rules do not meet the definition of "a major environmental rule" as defined in TGC, §2001.0225(g)(3), and thus, do not require a full reg-



ulatory impact analysis. Public comments were solicited and one commenter submitted comments regarding the Regulatory Impact Analysis Determination. All comments are addressed in the RESPONSE TO COMMENTS section of this preamble.

#### TAKINGS IMPACT ASSESSMENT

The commission evaluated these adopted rules and performed an assessment of whether these adopted rules constitute a taking under TGC, Chapter 2007. The purpose of these adopted rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter's readability and enhance its enforceability. Promulgation and enforcement of these adopted rules would be neither a statutory nor a constitutional taking of private real property. Specifically, the subject adopted regulations do not affect a landowner's rights in private real property because this rulemaking does not burden nor restrict or limit the owner's right to property and reduce its value by 25% or more beyond that which would otherwise exist in the absence of the regulations. These adopted rules make non-substantive changes to the existing rules and the adopted new regulations do not affect private real property.

#### CONSISTENCY WITH THE COASTAL MANAGEMENT PROGRAM

The commission reviewed the adopted rulemaking and found the rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(4), relating to rules subject to the Coastal Management Program, therefore, require that goals and policies of the Texas Coastal Management Program (CMP) be considered during the rulemaking process.

The commission reviewed this rulemaking for consistency with the CMP goals and policies in accordance with the regulations of the Coastal Coordination Council and determined that the rulemaking is editorial, administrative, and procedural in nature and has no substantive effect on commission actions subject to the CMP and is, therefore, consistent with CMP goals and policies.

#### PUBLIC COMMENT

The commission received comments from Austin Water Utility, Avery Solutions Unlimited, Burke Enterprises, City of Farmers Branch, ECO Resources, Inc., Irrigator Advisory Council, Irrigation Services, Irrigation System Solutions, Professional Operations, Inc., Pro-Line Publications, Raven Environmental Products, Inc., Texas Disposal Systems, Water Environment Association of Texas and three individuals. Austin Water Utility, City of Farmers Branch, Irrigators Advisory Council and the Water Environment Association of Texas all supported the rulemaking. However, Pro-Line Publications is opposed to the rules as written but supports uniform standards for all TCEQ licensee training. Pro-Line Publications commented that the distance learning mode/type of training is given negative treatment in the rulemaking compared to other methods of training. Several other commenters wanted additional clarity put into some of the rule provisions.

#### RESPONSE TO COMMENTS

##### *General Comments*

One individual commented that TCEQ has destroyed virtually all previously existing web page addresses and links with a "system upgrade" and virtually all internet searches for TCEQ turns up links that are no longer available.

The commission appreciates the comment. This comment is beyond the scope of this rulemaking. However, the comment was forwarded to TCEQ's Agency Communications Division for action, as they are responsible for the agency's websites. The commission made no change to the rules in response to this comment.

One individual commented that the TCEQ and Aqua Texas do not make it simple enough to find a licensed Customer Service Inspector and they should assist the builder at the time of the application.

The commission appreciates the comment, but it is beyond the scope of this rulemaking. However, the commission does maintain a searchable website, by license type, by TCEQ region, county or city that can be used by the general public. The commission made no change in the rules in response to this comment.

One individual commented that they wanted their name removed from the TCEQ mailing list.

The commission appreciates the comment. This comment is beyond the scope of this rulemaking; however, the individual's name was removed from the mailing list in response to the comment. The commission made no change to the rules in response to this comment.

Austin Water Utility commented that as a training provider, it is in favor of the elimination of the agency's existing Regulatory Guidance document RG-373 and for it to be replaced with a more specific document.

The commission acknowledges Austin Water Utility's support of the rules. An updated RG-373 is planned to address items that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

Austin Water Utility commented that the current guidelines for classes contained in the current RG 373 have been applied inconsistently and the guidelines themselves need to be clarified and definitions for classroom training or seminars need to be established.

The commission appreciates the comment. The incorporation of basic components from the existing RG-373 and other requirements into rule will establish more uniform procedures and more consistency for approving training and provides a mechanism to implement and enforce the requirements of those activities performed by training providers. The rules do establish definite requirements and provide clarification for classroom training and seminars. Additionally, an updated RG-373 is planned to address items that are not required (rules) but are best practices (guidance), to include descriptions of terms such as classroom training, seminars and other types of training approved for training credits. The commission made no change to the rules in response to this comment.

Austin Water Utility also commented that training providers and topics should be based on their experience and relevance, and not necessarily whether the person or company is "industry related." If so, water utilities should be considered as industry related businesses.

The commission appreciates the comment. Based on the requirements for the type of training event, the commission does consider the training provider's, instructor's or subject matter expert's experience. Also, training relevance is based on critical

job tasks related to the license. The rules include governmental entities in the "conference" format in addition to industry-related associations. The commission made no change in response to this comment.

Austin Water Utility commented that because governmental agencies are nonprofit that under the rules they should be exempt from paying fees for approval of classes.

The commission appreciates the comment. An equal amount of time is spent on reviewing and approving training submitted by nonprofit and for-profit organizations. This review consumes agency resources and the fee requirements contained in these rules are intended to cover part of that cost. The commission made no change to the rules in response to this comment.

The City of Farmers Branch (Farmers Branch) commended the commission's efforts to ensure current licensing regulations in Chapter 30 address inconsistencies between rules and applicable statutes and to address inconsistencies between the different licensing programs. The Irrigator Advisory Council commented that it was pleased to see several of its suggestions incorporated into the final draft of the proposed rules. The Water Environment Association of Texas commented that it supports the rules as drafted.

The commission acknowledges support of the rules by Farmers Branch, the Irrigator Advisory Council and the Water Environment Association of Texas.

Pro-Line Publications (Pro-Line) commented that it is opposed to the proposed rules as written, but does support uniform standards for all TCEQ licensee training. Pro-line and one individual commented that the goal of having uniform procedures for approving training has not been achieved in this rulemaking, particularly between distance learning and other methods of training and that contrary to statements in the Preamble, the proposed rules dramatically change the standards now found in the last adopted version of the commission's Regulatory Guidance document (RG-373) for approving training.

The commission appreciates the comment, but respectfully disagrees with the statement that the goal of having uniform procedures for approving training has not been achieved in this rulemaking, particularly between distance learning and other methods of training. The adopted rules may differ from the standards found in the existing RG-373, but there is nothing that precludes the commission from adopting rules that change guidance. The adopted rules incorporate basic components of RG-373 and additional requirements to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. For example successful completion of training for classroom training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. The commission believes this is not possible with certain other modes of training such as distance learning. An important part of classroom training lesson plans is the four-step teaching process including "checking for understanding or evaluation of learning." This can be accomplished by sev-

eral methods/means including, but not limited to ". . . verifying participation. . ." and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited to, proctored sign-in sheets, electronic tracking of attendance, and taking roll. The commission made no change to the rules in response to this comment.

Pro-line commented that the proposed rules promote more use of in-person training by reducing existing standards for classroom, association and conference training and increasing the standards for distance learning and that the TCEQ is unreasonably disadvantaging distance learning, the method of training that is least costly to the licensees and is most environmentally efficient. Pro-Line also commented that the rule proposal did not include any factual basis for adopting changes to the current standards in RG-373 nor adopting the standards for approval of distance learning training and that Chapter 30 should be revised to provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees (without waiving their challenge that training approval fees are not authorized by law).

The commission appreciates the comment, but respectfully disagrees that the proposed rules lower classroom instructor qualifications while increasing qualifications for distance-learning providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission's approval process between each mode of training is uniform and in fact increased standards for training approval of all modes/types of training as relates to accepted industry standards and practices. If the commenter is referring to the entities who may apply for approval of distance learning, the entities included in the rules have access to the resources, knowledge and technical expertise to produce quality training for occupational licensing. The commission made no changes to the rules in response to this comment.

Pro-Line commented that TCEQ should formalize its in-house performance standards for the length of time it takes staff and the methods by which the staff approves or disapproves training proposals ensuring uniform treatment of various training providers.

The commission appreciates the comment. The commission's staff work expeditiously to review and approve training of all the different types of training and levels of complexity of the materials submitted. To provide clarity regarding the commission's approval standards the following provisions have been added: §30.28(a)(1) "Within 45 days of the receipt of an application for approval for conferences, or association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation" and §30.28(a)(2) "Within 120 days of the receipt of an application for approval for classroom, distance learning, correspondence, or technology based training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation." Additionally, the term ". . . at least 30 days. . ." contained in §30.28(o)(2) has been changed to ". . . at least 45 days. . ." to provide consistency with §30.28(a)(1).

Pro-Line commented that current training providers have been afforded the legal privilege of providing training. Therefore, before the TCEQ revokes this privilege through adoption of a new rule, the TCEQ should seriously consider grandfathering existing training providers.

The commission appreciates the comment, but respectfully disagrees that the commission has revoked the privilege of currently approved training providers to provide training through the adoption of this rule. The commission has clarified the requirements that were previously in a guidance document and has addressed items that involve changing technology. However, current approved training will not be recalled as a result of the rulemaking. The new requirements will be imposed only when the training needs to be updated due to rule or program changes. There is no need to grandfather existing training providers. TWC, Chapter 37 does not expressly grant any rights or privileges to "training providers." TWC, Chapter 37 generally gives the commission authority to establish the qualifications that are necessary to obtain licenses and registrations issued under TWC, Chapter 37, and to determine what training, if any, is necessary to obtain or renew a license or registration, and to approve that training. The commission made no change to the rules in response to this comment.

Pro-Line commented that the proposed rules should include a transition plan to ensure that ongoing training businesses and their training is not disrupted unnecessarily by implementation of the new rule.

The commission appreciates the comment. The commission has no intention to recall, suspend or rescind training that has been previously approved as a result of implementation of this rule, therefore no transition period is needed. When a determination is made to recall training, the commission will coordinate with the training provider to establish a timeline for updating the training. During the recall period the training provider will be allowed to continue providing training. Students that attend and successfully complete the training during the recall period will receive applicable training credit. Training approval would be suspended or rescinded only after an investigation has determined the action is warranted. The commission made no change to the rule in response to this comment.

#### *Comments to Background and Summary--Preamble Statement*

One individual questioned whether or not there has ever been a separate fee for the review of training programs by TCEQ staff.

The commission appreciates the comment. In the past there has not been a separate fee for applications for training approvals. However the commission has authority to impose this fee under TWC, §37.009(a), which states that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37. The commission made no change to the rules in response to this comment.

One individual questioned if the RG-373 referred to in this rulemaking is the existing RG-373 dated September 2002.

The commission concurs that the RG-373 referred to in this rulemaking is the existing RG-373 dated September 2002. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance). The commission made no changes to the rules in response to this comment.

One individual questioned if any changes to the RG-373 require following the Administrative Procedures Act.

The commission appreciates the comment. Changes to regulatory guidance do not require the commission to follow the Administrative Procedures Act. However, the commission makes every effort to inform the regulated community when changes are being considered and to request comments and feedback to those changes. The commission generally uses various stakeholder groups to discuss changes. Agendas noting discussion of guidance documents are posted on the commission's applicable websites. The commission made no change to the rule in response to this comment.

One individual questioned if TCEQ staff are paid by the taxpayers. The individual questioned what funds currently cover the cost for the TCEQ to review and approve training material. The individual questioned what will the additional revenue collected by the TCEQ to review and approve training material be spent on. That individual also questioned whether the additional revenue collected by the TCEQ for the review and approval of training material is a way to make the proposed rule revisions more appealing to the commissioners or legislature.

The commission appreciates the comment. While some commission programs receive funds from tax dollars, according to the commission's budget and planning section the majority of funding comes from fees charged by the agency. The Occupational Licensing Program uses license application fee revenue to support its activities. Currently, funds from the Operator Licensing Section's budget are used to cover the cost for the commission to process applications for training approval. Due to the large volume of applications for training approval that are received, the commission established fees for processing applications for approval of training material covering: classroom training courses; training at conferences; training at association meetings; correspondence training; and technology-based training. In fiscal year 2006, staff processed approximately 500 applications for training approval. The review of this training is very time consuming and in some instances the entity submitting the material has used the agency's expertise to correct, complete, and polish their product. The commission disagrees with the comment that the purpose of the fees is to make the rule revisions more appealing to the commissioners or legislature. The commission made no change to the rules in response to this comment.

One individual commented that the TCEQ will edit and correct only conference and seminar training; however, fees are collected from all training providers in all modes of training. The individual questioned if the collection of fees for training material review and approval meant that TCEQ would provide editing and correction services for all training providers that pay the fee.

The commission appreciates the comment, but respectfully disagrees with this statement. The application fees are for the review and processing of training materials submitted for all modes of training, not just conference and seminar training. The rules do not imply that the commission will be performing editing and correction services for a fee. If errors are found during the review process, commission staff will notify the training provider of the discrepancies and allow them the opportunity to correct them. The rules require that the materials that are submitted with applications for course approval, no matter what mode/type of training, must have been edited by a subject matter expert. The commission made no change to the rules in response to this comment.

#### *Comments to Fiscal Note, "Public Benefits and Costs"*

Professional Operations, Inc. (PRO-OPS) commented that the cost for approval of classroom training (20-hour course) with new manuals would be \$500 not \$375.

The commission acknowledges the comment. There was an error in the fiscal note regarding the cost for approval of classroom training. The commission made no change to the rules in response to this comment.

*Comments to "Draft Regulatory Impact Analysis Determination"*

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions affect the training of environmental occupational licensees and therefore they do affect environmental quality.

The commission appreciates the comment. All of the commission's rules arguably work to protect the environment and reduce risks to human health. However, the specific intent of these rules is to aid the commission in administering occupational licenses and registrations. A by product of these rules would be the protection of the environment or reduced risks to human health from environmental exposure. The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions do not establish consistent or uniform procedures.

The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis that the rules do not establish consistent or uniform procedures. The adopted rules incorporate basic components of the RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of the activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions adversely affect small and micro-businesses.

The commission appreciates the comment. The determination was actually made in the Small Business and Micro-Business Assessment section of the proposal preamble. The commission disagrees with the premise that the rule will adversely affect small and micro-businesses. In fact, the rule provides greater clarity and certainty to the requirements for licensing and training. There should be less risk to small and micro-businesses since businesses will have a better understanding of the commission's requirements. The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions do adversely affect jobs.

The commission appreciates the comment, but disagrees with the statement that the proposed rule revisions adversely affect jobs. The rules do not impact the need for licensed individuals, thus there will be no change in the number of individuals seeking to obtain or renew a license. The market will remain for training to meet the licensing requirements. Because these rules do not meet the definition of "major environmental rule" as de-

finied by TGC, §2001.0225(g)(3), even if these proposed rules did adversely affect jobs in some manner, a full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b). The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions produce a conflict of interest between TCEQ and other training providers and therefore affect competition.

The commission appreciates the comment, but respectfully disagrees with the statement that the rule revisions produce a conflict of interest between TCEQ and other training providers. The TCEQ is held to the same standards as any other training provider, therefore, there is no conflict of interest for TCEQ to be a training provider or to be in competition with other training providers. It is the commission's belief that any affect on the economy or competition by these rules would be immaterial. Even if there was material affect, a full Regulatory Impact Analysis is not required because the specific intent of these rules is not to protect the environment or reduce risks to human health from environmental exposure. The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions adversely affect competition between training providers.

The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis for the presumption that the rules adversely affect competition between training providers. By incorporating basic components of the RG-373 along with other requirements, Chapter 30 does provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval appropriately reflect those differences. The commission's approval process between each mode of training is uniform and does not affect competition between training providers. Because these rules do not meet the definition of "major environmental rule" as defined by TGC, §2001.0225(g)(3), even if these proposed rules did adversely affect jobs in some manner, a full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b). The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions cause irreversible damages to the credibility and reputation of the training provider.

The commission appreciates the comment, but respectfully disagrees with this statement. The individual does not provide any basis for the statement that the rules cause irreversible damages to the credibility and reputation of the training provider. It is the commission's intention, by incorporating basic components of the RG-373 along with other requirements, to provide uniform standards for training materials; training providers; subject matter experts; methods of determining student comprehension of the training regardless of the training methodology; credit for repeat courses; and fees. The modes of training (i.e., class-

room training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval appropriately reflect those differences. The commission's approval process between each mode of training is uniform and does not affect competition between training providers. In actuality, although in the form of a guidance document, the requirements for approving training and the requirements for training providers have had changes over the years and implementing the rule will not cause irreversible damages to the credibility and reputation of the training provider. Training that conforms to the rules should not cause damages to the credibility or reputation of the training provider. The commission made no change to the rules in response to this comment.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions creates a scheduling dilemma for the licenses and adversely affects hundreds of licenses in training programs that are in progress.

The commission appreciates the comment. The implementation of the rules should not have an adverse effect on the occupational licensing programs. However, the Municipal Solid Waste (MSW) licensing program could be affected if the required training is not available in a timely manner. Therefore, the September 1, 2008 date for all MSW facilities to have the level of licensed supervisor required by §30.213(a) has been changed to September 1, 2009. Even though this might have affected some licenses, a full Regulatory Impact Analysis is still not required because these rules are not a major environmental rule.

One individual commented that the determination in the Draft Regulatory Impact Analysis is incorrect in that the proposed rule revisions cause misrepresentation producing litigation and damages for training providers.

The commission appreciates the comment, but respectfully disagrees with the statement. The individual does not provide any specific information regarding how the rule revisions cause misrepresentation, producing litigation and damages for training providers. The proposed rule revisions will not cause misrepresentation, producing litigation and damages for training providers. No material affect to the economy or sector of the economy is expected. The commission made no change to the rules in response to this comment.

One individual commented that eighty percent of training providers are small businesses and the proposed rule revisions do not adequately explain how the imposition of additional cost to the licenses or training providers ensures more consistent operation and enforcement among the licensing and registration programs.

The commission appreciates the comment. The commission is not aware of information to support the commenter assertion that eighty percent of training providers are small businesses. The commission does not categorize the size of businesses that provide training. To get a realistic assessment, all types of training and training providers in all of the occupational licensing programs must be taken into consideration rather than a particular mode/type of training or training provider. In reviewing all of the approved training, the major training providers such as the Texas Engineering Extension Service, Texas Water Utility Association, and Texas Rural Water Association provide the majority of the training. The requirement that a subject-matter expert review and edit training documents will allow staff to focus efforts on consistency in operations and enforcement among the licensing

and registration programs rather than editing documents. According to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009). Administering the program entails approving the training, issuing the licenses or registrations, and enforcing TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. Additionally, the proposed rules incorporate basic components of the RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. With regards to the imposition of additional cost to the licensees, renewals of licenses and registrations can currently be applied for using the state's TxOnline web site. To cover the cost of subscription charges for the use of TxOnline, the adopted rules will increase the cost for most for licenses and registrations by two dollars per year, or six dollars for the three-year term payable in the first year of application or renewal. License and registration costs for Leaking Petroleum Storage Tank Corrective Action Specialist and Underground Storage Tank On-Site Supervisors will increase an estimated three dollars per year, or nine dollars for a three-year period. Registration costs for water and wastewater operations companies will range from an estimated three dollars to twelve dollars a year, or nine dollars to thirty-six dollars for a three-year period depending on the size of the company. The commission made no change to the rules in response to this comment.

One individual commented that the proposed rule revisions lack adequate definition of terminology and therefore make interpretation of the rules by TCEQ very subjective.

The commission appreciates the comment. The individual did not identify which rules lack adequate definition of terminology. The commission believes the terms are adequately defined and allow for reasonable interpretation. Therefore, the commission made no change to the rules in response to this comment.

One individual commented that the proposed rule revisions are not consistent with RG-373 and the applicable statutes.

The commission appreciates the comment, but respectfully disagrees with the statement that proposed rule revisions are not consistent with RG-373 and the applicable statutes. The proposed rules may differ from the standards found in the existing RG-373, but there is nothing that precludes the commission from adopting rules that change guidance. The proposed rules incorporate basic components of RG-373 and additional requirements into rule to provide consistency and further establish uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e. classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission is unaware of any inconsistency between the rules and their applicable statutes. The commission made no change to the rules in response to this comment.

One individual commented that the proposed rules meet the definition of a "major environmental rule" as defined in Texas Government Code, §2001.0225(g)(3), and thus require a full regulatory impact analysis and questioned why the commission is avoiding performing a full regulatory impact analysis.

The commission appreciates the comment, but disagrees that the proposed rules meet the definition of a "major environmental rule" as defined in TGC, §2001.0225(g)(3). That section defines a "major environmental rule" as a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. Since the specific intent of these rules is to aid the commission in administering occupational licenses and registrations, it is not necessary to go to the second part of the definition. The stated intent of these rules is to ensure consistency between the rules and their applicable statutes, to make grammatical and punctuational corrections, and to modify or add language to improve the Chapter's readability and enhance its enforceability. The commission disagrees that it is avoiding performing a full regulatory impact analysis. A full regulatory impact analysis is not required under TGC, §2001.0225(a) and (b) because the proposed rules do not meet the definition of a "major environmental rule." The commission made no change to the rules in response to this comment.

PRO-OPS commented that it agrees that the rule as proposed is not a major environmental rule as defined in the Government Code, but respectfully disagrees with the stated reason. The first sentence in the analysis fails to include the second part of the two part test of what is a major environmental rule, the "adverse impact" clause. PRO-OPS commented that for TCEQ to avoid having to conduct a full regulatory impact assessment, they should state the intent and functions of the rules is to protect public health and the environment and that there is no adverse impact as a result of the rules.

The commission disagrees that it is inaccurate to state that the purpose of the proposed rules is not to protect human health and the environment. Texas Government Code, §2001.0225(g)(3), defines a "major environmental rule" "as a rule, the specific intent of which, is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state." All of the commission's rules arguably work to protect the environment and reduce risks to human health. However, a number of TCEQ rulemaking projects will not meet this test, and therefore will not be subject to a full regulatory impact analysis. Because the specific intent of these rules is to aid the agency in administering occupational licenses and registrations, it is not necessary to get to the second part of the definition of a "major environmental rule." The commission made no change to the rules in response to this comment.

#### *Comments to Subchapter A, Administration of Occupational Licenses and Registrations*

One individual questioned how the terms "work related" and "expert knowledge" contained in §30.7(16) were relative to the definition of a subject matter expert and how much work related experience (1 yr, 5 yrs) is needed to qualify as a subject matter expert.

The commission acknowledges the comment. Work-related experience is considered such experience as relates to the critical tasks in a particular occupation and may include, but is not limited to, hands-on experience such as design, installation, troubleshooting, testing, and operation. Expert knowledge can be the result of advanced study or research, association with other experts or extensive experience in a content area. A combination of experience and knowledge are necessary to be considered a subject matter expert. Subject matter experts are usually recognized and known throughout the occupation. The phrases "minimum of three years" and "as relates to the training" have been added to §30.7(16) to add clarity to the rule.

One individual questioned whether or not training experience would constitute work related experience.

The commission appreciates the comment. However, training experience does not constitute work-related experience. Work-related experience refers to the performance of the critical tasks associated with the occupational license. The commission made no change to the rules in response to this comment.

Pro-Line and one individual questioned whether or not "work related experience" and "expert knowledge" should be in the same area as the subject matter of the training being provided.

The commission acknowledges the comment. The definition contained in §30.7(16) has been modified to clarify that work-related experience and expert knowledge should be in the same area as the subject matter of the training being provided.

Irrigation Services, Pro-Line and one individual commented that the definition of subject matter expert is unclear and leaves the TCEQ staff to make a very subjective interpretation of who is and who is not a subject matter expert.

The commission acknowledges the comment. To provide clarity the definition of a subject matter expert contained in §30.7(16) has been modified to read: "subject matter expert--a person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training."

Irrigation Services commented that video conferencing needs to be added to the definition of Technology-based training.

The commission appreciates the comment. Video conferencing is currently considered under the approval for conferences and is not considered technology based. The term "interactive video conference" has been added to the definition of conference contained in §30.7(3).

Pro-Line questioned what factual basis was used for lowering the classroom instructor qualifications while increasing the qualifications for distance-learning providers and requiring more expertise in subject matter and educational principles of persons who teach correspondence than classroom instructor. Pro-Line feels that the definition of a qualified classroom instructor serves to decrease the existing, more specific requirements in RG-373, for an individual to qualify as a classroom instructor and the vagueness of the definition will encourage arbitrary approval or disapproval of who can qualify as a classroom instructor.

The commission appreciates the comment, but respectfully disagrees that the proposed rules lower classroom instructor qualifications while increasing qualifications for distance-learning providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards

and requirements for approval reflect those differences. The commission's approval process between each mode of training is uniform and in fact increased standards for training approval of all modes/types of training as relates to accepted industry standards and practices. If the commenter is referring to the entities who may apply for approval of distance learning training, the entities included in the rules have access to the resources, knowledge and technical expertise to produce quality training for occupational licensing. It is important to realize that the classroom instructor may not always be the same persons as the training provider. The commission made no change to the rules in response to this comment.

Pro-line and one individual commented that a better approach would be to require subject matter experts to hold a Texas license for the subject matter on which they are providing their expertise. In the alternative, a licensee should be considered sufficiently qualified to be considered as a subject matter expert.

The commission appreciates the comment, but respectfully disagrees that licensure should be considered sufficient to be a subject matter expert. The definition references ". . . work-related experience and expert knowledge. . . ." Several licenses require no work-related experience or expert knowledge to obtain. For example, no work-related experience or expert knowledge is required to obtain a Class "D" water and wastewater operator, On-Site Sewage Facility Installer I or Landscape Installer license. Additionally, requiring a Texas license might exclude nationally recognized experts from providing training, for credit, to Texas licensees because they do not have a Texas license. The commission made no change to the rules in response to this comment.

Pro-Line questioned whether or not the TCEQ Board intended in §30.10, Administration, to delegate to the Executive Director the power to establish (including changing) fees and by what authority can such a delegation be made. Pro-Line questioned if such a delegation was made how would the Administrative Procedures Act (APA) review and comments provisions be met for changes to the fees by future rules.

The commission appreciates the comment. TWC, §37.009(a) mandates that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37 and licenses and registrations issued under TWC, Chapter 37. The commission has already given the executive director the authority to collect occupational licensing fees under §30.10(6). However, the commission agrees that state law does not provide for the commission to delegate to the authority to the executive director to establish fees. Therefore, the term "establishing and" are being removed from that section.

Irrigation System Solutions commented that they were unaware of computerbased testing being offered by the TCEQ and questioned if this was something new or something that is going to take place. Irrigation System Solutions questioned to which occupational licensing programs this would be available.

The commission acknowledges that currently no computer-based testing is being offered by TCEQ. Because of the rapid development of technology, this type of testing may become available in the near future. The commission believes that it is prudent and proactive to address this issue in this rulemaking. The occupational licensing programs that would participate in such a project have yet to be determined. The commission made no change to the rules in response to this comment.

Irrigator Services commented that in regards to §30.28(a), classes should be approved that directly relate to the duties of a Licensed Irrigator. For example a landscape irrigator is an individual who sells, designs, maintains, alters, repairs, or services an irrigation system; provides consulting services relating to an irrigation system; or connects an irrigation system to any water supply. For a Licensed Irrigator to professionally fulfill his licensed requirements, one must be proficient in design, marketing, accounting, estimating, ethics, and management, to name a few.

The commission appreciates the comment. The commission approves training that is directly related to the licensees' job tasks and knowledge as is required to operate facilities, conduct installations, site assessments, or tests that lead to protection of the environment and public health. Licensees may take other training they find beneficial to maintain or improve their business practices; however, only those that support the job tasks are issued training credits. The commission made no change to the rules in response to this comment.

PRO-OPS commented that the use of the term "may be approved" in §30.28(b) is inconsistent with usage before and after and the wording should be changed to "shall be approved."

The commission appreciates the comment, but respectfully disagrees. The term "may be approved" in §30.28(b) is referring to the various modes/types of training for which licensees may receive credit if successfully completed and is consistent with the intended use. The term "shall be approved" contained in §30.28(a) refers to the approval of training. The commission made no change to the rules in response to this comment.

Pro-Line questioned the meaning of the term "successful completion" and whether or not the meaning applies to all methods of training. Pro-line also questioned whether or not mere attendance (without any testing) qualifies as "successful completion" of classroom, association and conference training and how mere attendance of classroom, association and conference training assures comprehension of the training. Pro-Line questioned what means does the proposed rule require to verify actual and full attendance of this type of training if no testing for comprehension of the training materials is required.

The commission appreciates the comment. References to training "attendance" in §30.28 have been changed to "successful completion." The term "successful completion" applies to all modes of training in the rules as it references "training and training material used to meet the requirements for obtaining or renewing a license. . . ." Successful completion of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including "checking for understanding or evaluation of learning." This can be accomplished by several methods/means including, but not limited to ". . . verifying participation. . ." and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited to, proctored sign-in sheets, electronic tracking of attendance, and taking roll.

Pro-line questioned what difference in terms of training credit used in §30.28(c) is justified if the same material is taught by one expert or another and by what criteria would such a difference be made.

The commission appreciates the comment and believes the commenter is referring to taking the subject matter expert qualifications into account when determining program credit. A qualified subject matter expert should not develop training and should not provide information to licensees on an occupational program area where the subject matter expert is not qualified. If a non-subject matter expert prepares training materials, provides information or teaches a class outside her/his area of expertise, the licensee may receive incomplete or inaccurate information. The commission makes every effort to ensure that classes that teach the same or comparable material are awarded the same or comparable amount of training credits. The commission made no change to the rules in response to this comment.

Pro-Line and one individual questioned the meaning of §30.28(c)(1) relating to field testing data, the criteria used for field testing, and how the provision could be uniform without the criteria for field testing.

The commission appreciates the comment. Field testing may consist of, but not be limited to, a representative sampling of students from the target audience that have completed the training to determine training credit and appropriate course content. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to address such criteria issues for field testing. The commission made no change to the rules in response to this comment.

One individual questioned if the criteria contained in §30.28(c)(2) would be used to determine subject matter experts and the training credit awarded. The commenter questioned how the determination could be uniform without predetermined criteria. The individual questioned how this provision could be uniform with rating training credit to quantity of subject matter.

The commission appreciates the comment but disagrees with the concept of using the quantity of subject matter only to determine training credit. A subject matter expert should not develop training nor provide information to licensees on an occupational program area where the subject matter expert is not qualified. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to further address subject matter experts. The commission made no change to the rules in response to this comment.

One individual questioned what the criteria is for the TCEQ staff members' qualifications in subject matter expertise, instructional design expertise, and educational principals in their review and analysis of training programs.

The commission appreciates the comment. Reviewing of training is an agency effort. Program area expertise is utilized in reviewing training material. Applicants for positions with the TCEQ must meet minimum qualifications set by the agency for specific job classifications. The TCEQ makes every effort to select individuals with educational and background experiences similar to the areas that are regulated by the agency and believes that its staff is qualified to make appropriate determinations in reviewing training material. The commission made no change to the rules in response to this comment.

PRO-OPS suggests omitting the word "qualifications."

The commission appreciates the comment. "Qualification" in this text means considering, the individual's education, experience and licensing among other factors. Therefore, removing the word "qualifications," from ". . . use subject matter expert qualifications to determine. . ." would change the rule outcome. The commission made no change to the rules in response to this comment.

Pro-line and one individual questioned language in §30.28(d)(3) and (4) regarding the meaning of the term "supplemental" information and materials and asked how training providers will know what this is and what to submit.

The commission appreciates the comment. When submitting an application for training approval the training provider must submit supplemental materials (i.e. course overview goals, training materials, event agendas, topics of educational programs, learning outcomes, etc. . . ) along with the application. The materials can vary depending on the mode/type of training. Therefore, an updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) to address terms such as supplemental information and have it commensurate with the mode of training. The commission made no change to the rules in response to this comment.

Pro-Line questioned why distance learning is the only type of training that is required to submit supplemental materials and why is this not a requirement for classroom, association or conference training to submit these materials.

The commission appreciates the comment, but respectfully disagrees with the statement that distance learning is the only type of training that is required to submit supplemental materials. Section 30.28(d)(4) of the rules require applications for approval of training courses or new training material from all modes/types of training to contain supplemental material. The commission made no change to the rules in response to this comment.

PRO-OPS commented that the term "training course" is used in several places in §30.28(d) and (e) but is undefined. PRO-OPS suggests that if the commission is referring to all types of training, they use the term training event as used elsewhere.

The commission appreciates the comment and staff agrees the term "training course" may be misleading and for consistency, the term(s) "training event" or "training" have been used in §30.28. The rule language was changed in response to this comment.

One individual commented that §30.28(d)(4) needed to define a "qualified subject matter expert" that would edit supplemental materials and information to be identified or defined for efficient submittal of training for approval.

The commission appreciates the comment. To provide consistency with the definition of "subject matter expert" contained in §30.28(16), the word "qualified" has been removed from the phrase, where applicable, throughout §30.28. A subject matter expert would need to meet the definition contained in §30.7(16) which is a person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.

One individual commented that the information required for certificates of completion needs to be identified or defined in §30.28(d)(5).

The commission appreciates the comment. An updated RG-373 is planned to address issues that are not required (rules) but are



best practices (guidance) such as the required information to be included on certificates of completion which should include, but not be limited to, the student's name, identifier number, course name, course number, training provider's name and number. The commission made no change to the rules in response to this comment.

One individual commented that a provision in §30.28(i)(2) confirms the need to have current rules and regulations as part of the licensees' training to ensure awareness of relevant and current rules and regulations.

The commission acknowledges the comment and agrees that current rules and regulations can be part of relevant training for licensees. However, providing licensees copies of rules with no further explanation from a classroom instructor or subject matter expert is not considered providing training. The commission made no change to the rules in response to this comment.

One individual questioned why a training provider is not allowed 180 days to make corrections or revisions after a recall and prior to rescinding and stated that there is not an adequate and reasonable time allotment for corrections or revisions which is uniform.

The commission appreciates the comment, but respectfully disagrees with the statement that time allotment for corrections or revisions to training is not adequate, reasonable and uniform. Depending on the reason and circumstances for a training recall, the time period for corrections or revisions may vary. Some recalls may be for items that are simple and do not need a great deal of time to correct or revise. There may be other instances where the material contains outdated or incorrect information and needs immediate response. It is the commission's intention to work closely with the training providers and allow reasonable time to make any necessary corrections or revisions. The amount of time allotted will be dependent upon the circumstance of the recall. The commission made no change in response to this comment.

PRO-OPS commented that it supports the concept that providers should be held responsible for their training in §30.28(i)(4). PRO-OPS suggested using the word "responsible" instead of "liable", which has a negative, adverse legal connotation.

The commission appreciates the comment and the word "responsible" has replaced the word "liable" in ". . . the training provider shall be responsible for the content and delivery of the training." A change to §30.28(i)(4) has been made as a result of this comment.

Pro-Line questioned what records are included in the term "accurate training records" in §30.28(i)(5).

The commission appreciates the comment. Accurate training records contain, but are not limited to, electronic or paper files listing student information, training the student has completed, sign-in sheets, etc. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) such as what training records are to be maintained by the training provider. The commission made no change to the rules in response to this comment.

One individual questioned whether or not the TCEQ is responsible for keeping accurate records.

The commission appreciates the comment. It is unclear what kind of records the commenter is referring to in this statement. However, with regard to occupational licensing, TWC, Chapter

37 requires the commission to maintain and make available to the public an official roster of persons who hold licenses and registrations issued under this chapter. The commission made no change to the rules in response to this comment.

PRO-OPS commented that the requirement in §30.28(i)(7) to notify students of all fees associated with completing and obtaining credit for training before and during the training is unclear. In most cases, the students are not the ones paying for the training; their employers are responsible for the charges. It is not clear how the agency is expecting this notification to be accomplished.

The commission appreciates the comment. The intent of the rule is that the training provider notify potential students of all the fees associated with successfully completing the training prior to enrollment. The commission wants to avoid instances where students arrive at a training event and learn that they need to purchase a workbook or supplies. This will also level the playing field because students will be able to compare the total costs of various classes. This can be done via accurate advertisements and notifications. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

PRO-OPS stated that the requirement in §30.28(i)(8) to accurately present to students approved training credit is unclear. Training providers are already approved for specific training classes prior to the class being held. Providing a certificate should suffice to the student a record of approved training credit. PRO-OPS questioned what other documentation the commission needed.

The commission appreciates the comment. The rule intends that the training provider notify potential students of the amount of training credit the commission has approved for the training event prior to enrollment via accurate advertisements and notifications. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

Burke Enterprises and Irrigation Systems Solutions commented that in regards to §30.28(i)(10), it should not be the instructor's responsibility to ensure licensees do not repeat the same distance learning course within the renewal period.

The commission agrees that the language in this section should be consistent with the part of the rule dealing with the requirements for distance learning. Training providers, at a minimum, should inform licensees that repeating the same distance learning training in the renewal period is not allowed for credit toward the required continuing education credits. In response to the comment the language in §30.28(i)(10) has been changed to read "inform licensees that distance learning training repeated within the renewal period will not receive training credit. . . ."

PRO-OPS commented that they are opposed to prohibiting a licensee from re-taking a training course and that students will learn something each time they take a class, especially safety related issues, and students should not be precluded from repeating training. PRO-OPS commented that this requirement is generally too prescriptive. Pro-Line and one individual questioned the prohibition against repeat courses for only distance learning and not classroom, association or conference courses.

The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences change and information obtained through classroom training will vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully completing a performance assessment. If this performance assessment is identical in content and format, the licensee may be obtaining training credit without obtaining additional knowledge and skill and investing no additional contact time. If further study is desired, a licensee is able to retain a copy of the training materials for a paper-based correspondence course. Therefore licensees repeating the same training courses for distance learning with the current renewal period will not be issued training credit. The commission made no change to the rules in response to this comment.

Pro-Line commented that §30.28(i)(10) and (p)(3)(C) contradict each other. The first section prohibits any distance learning repeat courses, but the second section permits the repeat course under certain conditions.

The commission agrees that the language in this section should be consistent between these two provisions. Therefore, the term "distance learning training repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment" has been added to both provisions to provide consistency.

Pro-Line and one individual questioned if the term "days" used in §30.28(i)(13) refers to "working days" or "calendar days" and asked what "successful completion" means to each type of training. An individual also questioned the meaning of successful completion related to each type of training.

The commission appreciates the comments. Language has been added to §30.28(i)(13) to reflect business days. References to training "attendance" in §30.28 have been changed to "successful completion." The term "successful completion" applies to all modes of training in the rules as it references "training and training material used to meet the requirements for obtaining or renewing a license. . . ." Successful completion of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including "checking for understanding or evaluation of learning." This can be accomplished by several methods/means including, but not limited to, " . . . verifying participation. . . ." and to report only the hours successfully completed for a training event. For classroom training, conferences, and training at meetings, the training provider can use a variety of means to verify participation, to include, but not be limited to, proctored sign-in sheets, electronic tracking of attendance, and taking roll.

One individual questioned what criteria will be used to recall training in §30.28(k).

The commission acknowledges the comment. Conditions making it necessary to initiate a training recall are similar to reasons

for rescinding, suspending or denying training approval. Therefore, the word "recall" will be included in §30.28(w)(3) for further clarification. The language, ". . . but is not limited to. . ." will also be added to enable the agency to initiate a training recall or rescind approval for reasons not anticipated at adoption or specifically listed in §30.28(w)(3).

One individual questioned whether or not the TCEQ had the obligation and responsibility to provide qualified staff for reviewing and evaluating past and present training programs.

The commission appreciates the comment. Applicants for positions with the TCEQ must meet minimum qualifications set by the agency for specific classifications. The TCEQ makes every effort to select individuals whose educational and background experiences are similar to the areas that are regulated by the professions regulated by the agency and believes that they are qualified to make the appropriate determinations in reviewing training courses and materials. The commission made no change to the rules in response to this comment.

One individual commented that the provision fails to recognize and address the damages incurred by the training provider for the rescinding of previously approved training. The individual also stated that the proposed revision fails to allow the training provider a reasonable and adequate amount of time to correct or revise the training prior to rescinding. There may be several hundred licensees in the process of completing training when a previously approved training program is recalled or rescinded resulting in damages and possible litigation between the licensee and training provider. The provision is not consistent with §30.28(i) which allows the training provider 180 days for revisions or corrections due to changes in the rules or regulations.

The commission appreciates the comment, but respectfully disagrees with the statement that the provision fails to recognize and address the damages incurred by the training provider for the rescinding of previously approved training. The individual does not provide any basis or reasoning for the presumption that damages will be incurred by the training provider for the rescinding of previously approved training. The commission also respectfully disagrees with the statement that time allotments for corrections or revisions to training are not adequate and reasonable. Depending on the reason and circumstances for a training recall, the time period for corrections or revisions may differ. The amount of time allotted will be dependent upon the circumstance of the recall. One recall may be for items that are simple and do not need a great deal of time to correct or revise or it may be an instance where the material contains outdated or misinformation and needs immediate response. It is the commission's intention to work closely with the training providers and allow adequate and reasonable time to make any necessary corrections or revisions. A recall will not necessarily result in training approval being rescinded; in fact by recalling the training to fix problems the commission hopes to avoid having to rescind training approval. The commission made no change to the rules in response to this comment.

One individual questioned whether or not the recall and rescinding of a previously approved training program could be due to inadequate qualifications of the TCEQ staff that initially reviewed and approved the training.

The commission appreciates the comment. TCEQ attempts to hire and retain qualified staff to review and approve training; the premise for this question is speculative. Since best practices, technology and industry standards change through time, there

will be times when previously approved training programs will be recalled and rescinded. The commission made no change to the rules in response to this comment.

One individual questioned whether or not it would be necessary to recall and re-evaluate all training to ensure compliance with proposed amendments.

The commission appreciates the comment. Training approval requests currently in-house will be evaluated against the existing rules. At this time, there are no plans to recall or re-evaluate all training. The commission made no change to the rules in response to this comment.

Pro-Line questioned if training is recalled when would the rescission of approval take place and how such a recall would affect credit for training that had already been completed by students.

The commission appreciates the comment. In the majority of instances the determination to rescind training approvals will only be made after the training provider has been given an opportunity to revise or correct the training material through the recall process and fails to do so. However, depending on the seriousness of the deficiency with the training the commission may rescind training approval without recalling it. Training credits for courses which have already been completed by students will not be affected by a course being recalled or rescinded. A recall will not necessarily result in training approval being rescinded; in fact by recalling the training to fix problems the commission hopes to avoid having to rescind training approval. The commission made no change to the rules in response to this comment.

Pro-Line also questioned how would such a recall affect credit for training for which students had already enrolled but not completed and what criteria is used when recalling training.

The commission appreciates the comment. When a determination is made to recall training, the commission will coordinate with the training provider to establish a timeline for updating the training. During the recall period the training provider will be allowed to continue providing training. Students attending and successfully completing the training during the recall period will receive applicable training credit. The commission made no change to the rules in response to this comment.

One individual commented that limiting training in §30.28(l)(2) to critical job tasks is not in the best interest of the occupation, the licensee, or general public.

The commission appreciates the comment. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site assessments or testing. The tasks are used to approve training, develop training and create curriculum guidance for acceptable topics for continuing education or course outlines for the basic licensing courses. Licensees may take other training they find beneficial to maintain or improve their business practices; however, only those that support the job tasks are issued training credits. The commission made no change to the rules in response to this comment.

One individual questioned what criteria are used and who performs the job analysis or work needs assessment. Pro-Line and one individual questioned what is the source of the job analysis or training needs assessment to which the rule refers and when would TCEQ make the identified critical job tasks available to

training providers so they can design their training in accordance with the rule. Pro-line also questioned if there was any requirement or prohibition against training going beyond the critical job tasks and including other relevant topics that indirectly relate to the occupation. One individual commented that training should be expanded to include current rules and regulations, business practices, consumer relations, and research and development instead of limiting training to critical job tasks.

The commission appreciates the comments. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site assessments or testing. The tasks can be used to approve training, develop training and create curriculum guidance for acceptable topics for continuing education or course outlines for the basic licensing courses. Staff approves training that is directly related to the licensees' job tasks and knowledge required to protect the environment and public health. Licensees may take other training they find beneficial to maintain or improve their businesses; however, this is not the purpose of continuing education for maintaining an occupational license and should not receive training credit. Job tasks analysis or job assessments that have been completed for a specific program area are available upon request to the commission's occupational licensing section. The commission made no changes to the rules in response to these comments.

One individual commented that relative to §30.28(l)(3) that RG-373, Page 3 specifically states "occupational training is not to be used as an opportunity for advertisement" and that endorsements or advertisements have never been allowed in occupational training prior to these proposed amendments. These proposed revisions will allow endorsements by multiple manufacturers, distributors or service providers and does not comply with RG-373. Therefore, these revisions do not provide consistency between the rules and the applicable statutes.

The commission acknowledges the comment but disagrees that the rule will allow endorsements. That section was modified to clarify that training is not to be used as an opportunity for advertisement by deleting the word "single" and adding ". . . or used as an opportunity for advertisement. . ." in §30.28(l)(3). However, in some training, demonstration or use of specific products/services is required, such as testing of backflow prevention assembly devices. In these cases, the training provider is required to include examples of a variety of products/services, present information generically and refrain from endorsing product(s)/service(s) as a part of training approval as explained in RG-373. The commission made changes to the rule language in response to this comment.

Pro-Line and one individual commented that use of the term "a single" to suggest that a training course or material can promote and endorse products or products lines, or services so long as the promotion and endorsement is for two or more manufacturers, distributors, or service providers. Pro-line commented that the rule should be clarified as to what promotion or endorsement, if any, is prohibited and what is permitted.

The commission agrees that the term could cause confusion, therefore, the phrase "or used as an opportunity for advertisement" has been added to the language in §30.28(l)(3) in response to the comment.

Pro-Line and one individual commented that "means" needs to be defined and illustrated in §30.28(l)(4).

The commission appreciates the comment. The rule intends that the training provider provide ways (means) to accomplish the learning objectives identified for training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

Pro-Line and one individual questioned what factual basis was used in §30.28(l)(6) to require written examinations to ascertain student comprehension of distance learning courses, but not requiring such testing for classroom, conference, and association training.

The commission acknowledges the comment but disagrees that the rules require written examinations for distance learning without similar requirements for other types of training. The initial basis and reference for distance learning requirements is the International Association for Continuing Education and Training (IACET) guidelines for distance education. The rule states all training ". . . be monitored for successful participant completion. . . ." There is no requirement in the rules requiring "written examinations" to ascertain student comprehension. The commission made no change to the rules in response to this comment.

Pro-Line questioned how TCEQ or training providers determine in advance of training approval, is someone an "instructional design expert" and how will TCEQ or training providers determine in advance of training approval if someone is an "effective qualified classroom instructor." Pro-line also questioned what is the difference between being "effective" and "qualified" and what is intended by the alternative of having "instructional design experts" versus using a "classroom instructor" and limit the alternative to only classroom instructors.

The commission appreciates the comment. An "instructional design expert" has training with educational principles, assessments and curriculum design and learning theory along with successful experience in the delivery of training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). These determinations would be made during the review and approval process based on information supplied by the training provider. Instructors considered qualified would include a person whose past accomplishments include achievements related to classroom instruction, occupational license(s), and hands-on experience with critical job tasks. Instructors considered effective in the classroom would include a person with a demonstrable ability to ensure student comprehension of approved course content (in part by maintaining an environment conducive to student interest and learning). An effective instructor receives few, if any, substantiated complaints on performance. The commission made no change to the rules in response to this comment.

One individual commented that §30.28(l)(8) needs to define and qualify the terms "subject matter expert" and "instructional design expert." Additionally, training providers need specific criteria for the proper and productive research and development of training programs.

The commission appreciates the comment. The term "subject matter expert" has been defined in §30.28(7) as a person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas. An "instruc-

tional design expert" has training with educational principles, assessments and curriculum design and learning theory along with successful experience in the delivery of training. More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

Pro-Line and one individual questioned why classroom training is not held to the same standards as distance learning and what factual basis does TCEQ have for treating these modes of training differently in §30.28(m).

The commission appreciates the comment. The commission's approval process between each mode of training is more uniform as a result of these rules, and in fact, these rules increased the standards for training approval of all modes/types of training as relates to accepted industry standards and practices. The proposed rules incorporate basic components of the RG-373 and additional requirements into rule to provide consistency and further establish more uniform procedures for approving training and a mechanism to implement and enforce the requirements of those activities performed by training providers. The modes of training (i.e., classroom training versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. For example successful completion and comprehension of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including "checking for understanding or evaluation of learning." This can be accomplished by several methods/means including, but not limited to ". . . verifying participation. . ." and to report only the hours successfully completed for a training event. The commission made no change to the rules in response to this comment.

One individual questioned how a classroom instructor monitors each and every student's comprehension of the subject matter based on attendance and occasional interaction with a minority of the participants.

The commission appreciates the comment. Successful completion and comprehension of training can be determined by interaction between the instructor or subject matter expert presenter and participants. Other participants can also aid in the comprehension of the training topic by interaction between participants which is possible in classroom training, conferences and training occurring at association meetings. An important part of classroom training lesson plans is the four-step teaching process including "checking for understanding or evaluation of learning." This can be accomplished by several methods/means including, but not limited to ". . . verifying participation. . ." and to report only the hours successfully completed for a training event. The commission made no change in the rules in response to this comment.

One individual questioned why classroom training is not required to be submitted for approval by governmental entities, industry related associations or accredited colleges.

The commission appreciates the comment, but respectfully disagrees with the statement that governmental entities, industry related associations or accredited colleges are not required to

submit classroom training for approval. The rules require that all training providers no matter the mode/type submit proposed training for approval. The commission made no changes in the rules in response to this comment.

ECO Resources, Inc. (ECO) commented that it appeared that §30.28(m)(1) addresses the State's concern that a place of business may take a training experience and turn it into a sales opportunity. ECO commented that the State should consider that the classes are under the supervision of a trained instructor and that certain businesses may have better training facilities than some utilities and that the business may be able to provide on site resources that could not be transferred to other locations.

The commission appreciates the comment. This provision is intended to ensure training for occupational licensees is not an opportunity for advertisement of specific products and services related to the occupational licensee's duties. It is the training provider's responsibility to ensure the training facilities are conducive to learning. Facilities promoting products of distributors, service providers, etc., connected to the type occupational license related to the training would not be conducive to learning. The commission made no change to the rules in response to this comment.

ECO commented that the second sentence of the rule (§30.28(m)(1)) is unnecessary and recommends deleting the proposed rule in its entirety.

The commission appreciates the comment. This provision is intended to ensure training for occupational licensees is not an opportunity for advertisement of specific products and services related to the occupational licensee's duties. Exempting water, wastewater and solid waste facilities was included at the request of the regulated community as many of these facilities are not profit-centered and have appropriate training facilities on-site. The commission made no change to the rules in response to this comment.

Pro-line questioned why terms such as "training courses" were used instead of the defined term "approved training event" in §30.28(n)(2). Pro-line questioned if it was the commission's intention to grant authority to the Executive Director to approve training credit for attendance or completion of events that are not included within the definition of an approved training event.

The commission appreciates the comment and agrees the term "training course" may be misleading and for consistency, the term(s) "training event" or "training" have been used instead of "training course." It is not the commission's intention to approve training credits for attendance or completion of events that are not included within the definition of an approved training event. However, §30.28(b) allows the executive director to approve training credits for successful completion of other professional activities, such as publication of articles or teaching classroom training courses. Changes to the rule language were made as a result of this comment.

PRO-OPS commented that §30.28(o), relieves associations from the prohibition on holding training at places of businesses. PRO-OPS questioned if that was the intent of the rule and if so object to it.

The commission appreciates the comment and to provide consistency, has added the provision "the training at association meetings must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license" to §30.28(o).

Pro-Line questioned how §30.28(o)(1) would work and if TCEQ could ensure that training conducted at a national conference of an association was relevant to Texas-based occupation job tasks and knowledge. Pro-Line further questioned how there is any assurance of the content, subject matter or educational expertise, if training is approved by associations on an annual basis.

The commission appreciates the comment, but national conferences must meet the rule requirements of in-state training events and are reviewed accordingly. Presently, most associations apply for approval of training at meetings on an individual basis. The association training provider must submit a list of topics/subject matter for approval for the year, or provide training from a list of approved training topics. Upon review of the application for training approval, the training will be approved or denied as warranted. The commission made no change to the rules in response to this comment.

Pro-Line questioned why the requirements of conferences, seminars or workshops include at least four hours of approved training and why association meetings must be at least one hour in length and contain at least 30 minutes devoted to presentations by qualified subject-matter experts on topics related to job tasks performed by the licensees. Pro-Line also questioned why conference and association training is not subject to the same standards as distance learning.

The commission appreciates the comment, but respectfully disagrees with statement that the requirements of conferences, seminars or workshops include at least four hours of approved training. For conference training to be approved, the adopted rules will require that it contain a minimum of three hours of approvable training. Association meetings are generally conducted in conjunction with lunches or evening meal, therefore the amount of training time at those venues are less. The amount of training credits issued to an association meeting will be dependent on the actual length of the training presented. The modes of training (i.e., association meeting versus distance learning versus conferences) differ greatly in training methodology and therefore the delivery standards and requirements for approval reflect those differences. The commission made no change to the rules in response to this comment.

One individual questioned §30.28(p)(1) and whether or not it is a conflict of interest for TCEQ to be a training provider or be in competition with other training providers because the TCEQ establishes the rules, interprets the rules and approves and rescinds all training.

The commission appreciates the comment. The TCEQ technical programs that conduct training are held to the same standards as any other training providers. The technical programs submit their training to the occupational licensing section for approval just like any other private sector training provider. If the training does not meet the criteria it will be returned to the appropriate area for revisions, the agency training is also eligible to be recalled or rescinded. Therefore, there would be no conflict of interest for TCEQ to be a training provider or be in competition with other training providers. The commission made no change to the rules in response to this comment.

Irrigation Services commented that §30.28(p)(1)(A), (B), and (C) can be deleted and the language in §30.28(p)(1)(D) changed.

The commission appreciates the comment. As relates to distance learning training, governmental entities, industry-related associations and accredited colleges have or have access to

the resources, knowledge and technical expertise to produce quality training for occupational licensing. Individuals and private companies may very well demonstrate capabilities in the technical, educational, and subject-matter knowledge areas of distance learning training and under §30.28(p)(1)(D) will be considered for approval. The commission made no change to the rules in response to this comment.

Pro-Line questioned the factual basis for the standard relating to organizations that can submit distance learning training for approval. Pro-Line questioned the context of the rule related to the term "comparable" (comparable to whom or what). Pro-Line also questioned why distance learning trainers have exceptional subject matter expertise beyond that required of trainers in other modes of training and what does the term "exceptional" mean in this context. Additionally, Pro-Line questioned if experience actually performing approved distance learning for TCEQ, such as that possessed by Pro-Line, qualify an entity for distance learning and why isn't the criteria included in the rule that the executive director would use to determine who can submit distance learning for approval.

The commission appreciates the comment. With respect to the term "comparable", contained in §30.28(p)(1)(D) as it relates to other entities that the executive director may determine qualified to submit distance learning training; this would be entities that can demonstrate they have comparable resources of governmental entities, industry-related associations, and accredited colleges such as having or having access to knowledge and technical expertise to produce quality training for occupational licensing. Therefore, individuals and private companies with demonstrated capabilities in the technical, educational, and subject-matter knowledge areas of distance learning training comparable to the other entities will also be considered for approval. It is not appropriate to address an individual training provider's qualifications as part of the rule process. Additionally, to provide clarity the commission has removed the term "exceptional" from §30.28(p)(1)(D).

PRO-OPS commented that the wording in §30.28(p)(1)(D) is too vague and uncertain. The characteristics that distance learning must have are specified elsewhere in the rule, so subparagraph (D) can be safely deleted.

The commission appreciates the comment. However, ". . . other entities, as determined by the executive director, who can demonstrate. . ." refers to those entities which may submit applications for approval of distance learning and are not included in the characteristics of the training. Therefore, the reference to other entities who may apply for training approval remains. The commission made no change to the rules in response to this comment.

One individual questioned §30.28(p)(3) and whether or not distance learning training could be repeated if a different examination is provided for student evaluation.

The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences changes and information obtained through classroom training may vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully complet-

ing a performance assessment. If this performance assessment is identical in content and format, the licensee may obtain training credit without obtaining additional knowledge and skill and investing no additional contact time. If further study is desired, a licensee is able to retain a copy of the training materials for a paper-based correspondence course. Distance learning may be repeated if the training provider can demonstrate the performance assessment is not identical in content and format to the same training that has already been taken during the current renewal period. The commission made no change to the rules in response to this comment.

One individual questioned whether or not the same training be repeated by attendees in the same renewal period for classroom, convention, association meetings and training events and why the provision (§30.28(p)(3)(C)) was discriminatory.

The commission appreciates the comment. Licensees may participate in training as many times as they wish, however, the purpose of training is to maintain and enhance the skills and knowledge necessary to perform the job to protect the environment and public health. Training at association meetings and conferences changes and information obtained through classroom training may vary depending on the instructor and the participants. Also, attendance can be verified for meetings, conferences and classroom instruction. Distance learning, although consistent, provides licensees credit after successfully completing a performance assessment. If this performance assessment is identical in content and format, the licensee may obtain training credit without obtaining additional knowledge and skills and investing no additional contact time. The commission made no change to the rules in response to this comment.

One individual commented that the term "timely" needs to be defined in §30.28(p)(3)(B).

The commission appreciates the comment. To provide clarity the term "timely" used in §30.28(p)(3)(B) and (r)(4) has been changed to "must provide students within one business day, access to a subject matter expert."

PRO-OPS commented that the term "printed course information" is vague and unclear in §30.28(s). They suggest using language such as "written course materials." The existing language for example could be interpreted to mean "course announcements."

The commission appreciates the comment and agrees the phrase "Printed course information. . ." may be confusing. Therefore, the phrase has been changed to "Training materials. . ." Consequently, training utilizing power point presentations, manuals, hand-outs, information on a computer screen, etc., would be included.

One individual commented that the terms "modified", "target audience" and "method of delivery" need to be defined in §30.28(t).

The commission appreciates the comment. The term "modified" as used in §30.28(t) refers to changing the training materials; the term "target audience" as used in §30.28(t) refers to the particular group that the training is being addressed (i.e. water operator, landscape irrigators, etc.), and the term "method of delivery" as used in §30.28(t) refers to the method in which the training is being delivered (i.e. on-line, activity based, instructor led, field project, etc.). More specific information will be available in the updated RG-373 which will address issues that are not required (rules) but are best practices (guidance). The commission made no change to the rules in response to this comment.

Pro-Line and one individual questioned what is meant by the term "in an original manner" and why aren't there uniform requirements that printed course material be used at all times in all types of training in the rule. Pro-Line questioned whether or not printed material could include knowledge that is relevant and optional in addition to that which is necessary. Pro-Line also questioned whether or not this language prohibits using copies of rules and other reference material that are not reformatted, i.e., not in an original manner created by the trainer and the reasoning for such broad restrictions.

The commission appreciates the comment. To provide clarity the phrase "printed course information. . ." has been changed to "training materials. . ." Consequently, training utilizing manuals, hand-outs, information on a computer screen, etc., would be included. The rule addresses the use of copies of the rules in §30.28(t) in that the materials must be modified to be applicable to the target audience and the method of delivery, such as via instructor-led presentation or on-line training. The rules do not prohibit copies of rules, or other materials that have not been reformatted from being included in the training, but should only be used as reference in conjunction with the training material. If training materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references. The rule language was changed as a result of this comment.

One individual commented that the term "good cause" in §30.28(w)(3) needs to be defined.

The commission appreciates the comment. However the term "good cause" is defined within the provision. Section 30.28(w)(3), states that the executive director may rescind, suspend, or deny training approval for good cause. Those reasons include, but are not limited to: the training not conforming to current technical standards or rules; the training not conforming to the materials as approved; the subject matter not relating to critical job tasks performed by licensees; an instructor not qualified to teach the subject matter; an instructor being ineffective in the delivery of the subject matter; training that promotes or endorses products, product lines, or services from one manufacturer, distributor, or service provider; participation records not submitted as required by the rules; records, rosters, or application materials having been falsified; noncompliance with a training recall. The commission made no change to the rules in response to this comment.

One individual commented that §30.28(w)(3)(A) needs to specifically identify or define current technical standards or rules for each occupation.

The commission appreciates the comments. The rule references rescinding, suspending, or denying training approval if the training does not conform to current technical standards or rules. The phrase, "accepted industry standard practices or agency rules" has been substituted for the words "current technical standards or rules" to clarify the requirements. For example, the rules for Landscape Irrigation reference manufacturer's recommendations and currently accepted practices and knowledge. In the water and wastewater industry there are national associations which develop and update best management practices and industry standards. Training providers making an effort to remain updated and active in their industry are familiar with the technical

requirements in the training for occupational licensees and may vary for each program area. The rule language was changed as a result of this comment.

Pro-Line questioned what difference there is between training being recalled and training being rescinded or suspended and if training is rescinded or suspended, how will that action be taken so as not to adversely affect credit for training for which students had already enrolled but not completed.

The commission appreciates the comment. Training recalls are used to review and re-evaluate existing training courses. The training provider is allowed to keep offering the course during the recall period. Once the recalled course has been re-evaluated the commission will notify the training provider of any deficiencies and give them a time frame to correct the deficiencies. The training provider is allowed to offer the course during this time period. However, if the training provider fails to make the necessary modifications to the course within the time frame allotted, the commission may rescind training approval for that course and instruct the training provider to discontinue offering the course. The commission may also rescind, suspend or deny training approval for training that meets the criteria in §30.28(w). Any students that had enrolled in the training before the effective date of the training approval being rescinded or suspended, but had not completed the training will receive the applicable credit. The commission made no change to the rules in response to this comment.

Pro-line questioned whether or not training could comply with these rules, but still be rescinded, suspended, or denied if not conforming to current technical standards and to what technical standards are being referred. Pro-line questioned what authority is there to omit the technical standards from the rule proposal if they are going to constitute the basis for rescinding, suspending, or denying training approval.

The commission appreciates the comment. The rule references rescinding, suspending, or denying training approval if the training does not conform to current technical standards or rules. The phrase, "accepted industry standard practices or agency rules" in §30.28 has been substituted for the words "current technical standards or rules" to clarify the requirements. For example, the rules for Landscape Irrigation reference manufacturer's recommendations and currently accepted practices and knowledge. In the water and wastewater industry there are national associations which develop and update best management practices and industry standards. Training providers making an effort to remain updated and active in their industry are familiar with the technical requirements in the training for occupational licensees and may vary for each program area. An updated RG-373 is planned to address issues that are not required (rules) but are best practices (guidance) accepted industry standard practices.

Irrigation Services commented that better definitions of "subject matter expert" and "critical job tasks" are needed in §30.28(w)(3)(C).

The commission appreciates the comment. "Subject matter expert" is defined in §30.28(16) of the rules. Critical job tasks are identified by performing a job task analysis or training needs assessment involving input from subject matter experts in the occupational licensing program areas. The job tasks are those identified by subject matter experts as tasks required by licensees to ensure proper operation of facilities, installation of systems, site assessments or testing. The tasks are used to approve training, develop training and create curriculum guidance for acceptable

topics for continuing education or course outlines for the basic licensing courses. The commission made no change to the rules in response to this comment.

Irrigation System Solutions commented with regards to §30.28(x), they have no problem with a reasonable fee for training material reviews. However, most training providers in the landscape irrigation industry are small companies and these fees appear quite high. Irrigation System Solutions also suggested that TCEQ consider a more reasonable fee structure (if any). Burke Enterprises commented that the total dollars TCEQ takes in from the irrigation program licensing fee is much greater than the expense to run TCEQ's part of the irrigation licensing program and it is unfair to burden instructors with another fee.

The commission appreciates the comments. According to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009). Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. The fees contained in the rules are consistent between all modes/types of training. The commission made no change to the rules in response to this comment.

Irrigation Services questioned why collect fees for training approval if the fees are being deposited into the State's general revenue fund and are not being used to help the landscape irrigator licensing program.

The commission appreciates the comment. However, according to TWC, §37.008(a), the commission has a mandatory duty to approve the training programs that are necessary for all occupational licensees regulated by the commission to qualify for or renew their licenses. The statute requires the commission to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009).

Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program. Therefore, the cost to review and approve training must be looked at globally and not what the cost may be for an individual program. The commission made no changes to the rules in response to this comment.

Pro-Line commented that they challenge the authority of the TCEQ to tax training providers directly with this new fee. Pro-Line questioned the factual justification for different fee rates for training approval based on the modes of training.

The commission disagrees that it does not have authority to impose a new fee for reviewing and processing applications for

training program approval that are received by the commission. TWC, §37.009(a) states that the commission shall establish and collect fees to cover the cost of administering and enforcing TWC, Chapter 37. Contrary to the comment, this grant of authority is in addition to the grant of authority that is also in that section, which is to establish and collect fees for the issuance of licenses and registrations.

Further, according to TWC, §37.008(a), in administering TWC, Chapter 37, the commission has a mandatory duty under TWC, Chapter 37 to approve the training programs that are necessary for licensees to qualify for or renew their licenses. In addition to the clear language of the statute, the bill analysis that was filed with the final enrolled version of HB 3111, 77th Legislature, 2001, Regular Session states that, "The bill sets forth provisions requiring TNRCC (now TCEQ) to establish and approve training programs necessary to qualify for or renew a license (TWC, §37.008). The bill requires TNRCC (now TCEQ) to establish and collect fees to cover the cost of administering and enforcing provisions and to deposit the fees to the credit of the occupational licensing account (TWC, §37.009)."

Administering the program entails approving the training, issuing the licenses or registrations, and continuing to enforce TWC, Chapter 37 and making sure that its provisions are complied with after license or registration issuance, among other things. The commission believes that the grant of authority in TWC, §37.009 was intended to allow the commission to establish and collect fees to cover the costs of the entire occupational licensing program, which does not contemplate just the issuance of licenses and registrations. Finally, the commission does not believe that the Texas Legislature intended to impose a separate, mandatory duty on the commission while excluding the cost of carrying out that duty from the grant of authority in TWC, §37.009. The commission made no change to the rules in response to this comment.

#### *Comments to Subchapter B, Backflow Prevention Assembly Testers*

PRO-OPS commented that the addition of §30.60(5)(F) and (G) would add wastewater experience and sanitarian experience to those work areas approved for qualifying for a Backflow Prevention Assembly Tester (BPAT) license. PRO-OPS disagrees with these additions, as neither of the two occupations perform any related job tasks that would meaningfully qualify them for BPAT licensure. To accept this work experience would mean licensure of unqualified individuals.

The commission appreciates the comment, but respectfully disagrees with the assumption that accepting the proposed work experiences would mean licensure of unqualified individuals. The commission feels that both of these occupations serve as base levels for qualifying to apply for a BPAT license. The individual will have to show competency by completing the BPAT training course and passing the applicable exam. The commission made no change to the rule in response to this comment.

#### *Comments to Subchapter F, Municipal Solid Waste Facility Supervisors*

Farmers Branch believes the proposed removal of the MSW "D" license in §30.210, Qualifications for Initial License, should be reevaluated. Farmers Branch believes MSW transporters are integral to the solid waste management process and are held to a high standard by the applicable regulations, especially 30 TAC Chapter 330, Subchapter C, Municipal Solid Waste Collection and Transportation. Farmers Branch stated that



transporters must be able to properly classify the type of waste being hauled as well as the proper type of facility to which to haul the material for processing or disposal. Farmers Branch stated that given the breadth of both federal and state regulations that must be understood, mandatory training and licensing for MSW transporters should be imposed despite the lack of a mandate. Farmers Branch stated that not imposing licensing, minimum education, minimum training, or work experience requirements for MSW transporters seems to place a large onus on MSW processing and disposal facility operators to police and educate transporters. Farmers Branch perceives a contradiction between the current MSW regulations and the proposed licensing regulations.

The commission concurs that persons who collect and transport MSW are an important step in the process of proper waste management. Persons who collect and transport waste have an on-going opportunity to inform and educate generators as to proper waste management techniques and segregation of different waste types. The commission encourages training providers to offer training designed specifically for persons collecting and transporting MSW and will recognize qualifying collection and transport training as continuing education credits for MSW supervisor license renewals required by §30.212. However, the commission will abide by the enabling statutory authority established by THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors and will eliminate the Class D MSW supervisor licenses. The commission made no change to the rule in response to this comment.

Texas Disposal Systems commented that the amount of training required to obtain a license has been rather excessive, has limited the number of people that have been able to participate in the program, has far exceeded what is required to adequately train staff, and has been a hindrance to getting trained staff at MSW facilities.

The commission agrees with this comment; however, the adopted rules address the commenter's concerns as the rules remove the number of training credits/hours required to qualify for each level of license. Prior to this adoption, the courses required for each level of license was 40 training credits/hours. This adopted rule change will require different types of MSW facilities to be supervised by individuals licensed at different levels. Because of the changes in the requirements, changes in training will be needed. Updated training classes are expected to focus on specific requirements needed to operate the different types of facilities. The commission believes that by removing the required 40 hour courses and providing for more focused training, the training credit hours to obtain a license will decrease, but will still provide the necessary training needed to protect the environment and public health. The commission made no changes to the rules in response to this comment.

Farmers Branch stated that related to §30.213, Classification of Municipal Solid Waste Facilities and Level of License Required, all MSW landfill operators, regardless of waste stream, size, or location, have to understand the siting, design, and operations criteria for owning and operating an MSW disposal facility. Farmers Branch requested that all MSW landfill operators have same licensing requirements. Farmers Branch stated that since both landfills and permitted composting facilities handle MSW and have the potential to contaminate the surrounding media if operated improperly, all MSW landfills and permitted composting facilities should have at least one person on staff required to obtain an MSW "A" license.

TDS stated that the standards needed for operating a landfill as compared to a transfer station, for example, are very different. TDS commented that all MSW licenses should be grouped by similar facility type and not by volume of waste as proposed.

Avery Solutions Unlimited expressed concern that supervisors of Type IAE landfills will not have the knowledge or skills to effectively protect the environment and human health, unless sufficient training is required. Avery Solutions Unlimited further noted that Type IAE landfill facilities are required to follow the same operating standards as Type I landfills with the exceptions regarding liner installation and groundwater monitoring. Operating requirements such as daily cover, waste screening and acceptance, signage, reporting, permitting, etc. are identical to a Type I facility. Avery Solutions Unlimited stated that supervisors of Type IAE landfills should be required to obtain at minimum Class B licenses, if not A licenses.

The commission agrees with most of these comments and has revised §30.213 to group licensing requirements by overall facility type. The facility supervisor licensing requirement for a Type IAE landfill has been changed from the Class C MSW supervisor license to a Class A supervisor license. As a result, all Type I and Type IAE landfill facilities will be required to employ at least one individual with a Class A MSW supervisor license. The facility supervisor licensing requirement for registered compost facilities has been changed from the proposal of a Class C MSW supervisor license to a Class B supervisor license. As a result, all registered or permitted compost facilities, Type V facilities not otherwise specified, and Type IX energy or material recovery facilities not otherwise exempted will be required to employ at least one individual with a Class B MSW supervisor license. Changes to the rule were made as a result of this comment.

Avery Solutions Unlimited noted that Type IVAE landfills were not mentioned in the proposed rules. Avery Solutions Unlimited noted that Type IVAE landfills are numerous in West Texas and are required by rule to be permitted. Avery Solutions Unlimited reasoned that since the proposed rules require registered compost and scrap tire facilities to hold a 'C' license, not requiring supervisors of Type IVAE facilities to hold any license would be inconsistent with the objectives of the licensing program. Avery Solutions Unlimited commented that Type IVAE landfill supervisors should be required to hold a license equal to that of a Type IV landfill.

The commission appreciates the comment and acknowledges the omission of Type IVAE landfill facilities in the proposed rule. This omission will be corrected in future rulemaking. The omission of the Type IVAE landfill facilities will not preclude the facility from the requirement to have a licensed supervisor. Section 30.201 requires at least one individual who supervises or manages the operation of a municipal solid waste facility must meet the qualifications of Chapter 30, Subchapter F and be licensed according to Chapter 30, Subchapter A. Additionally, commission has chosen to impose different supervisor licensing requirements for Type IV and Type IVAE landfill facilities. Although other commenters wanted all landfills to have identical supervisor licensing requirements, Type IV landfills do not warrant the same level of licensing as Type I or Type IAE landfills since Type IV landfills are only authorized to manage brush, rubbish, and construction or demolition waste, as specified in §330.5(a)(2), Classification of Municipal Solid Waste Facilities. The commission will require Type IV landfill facilities to employ at least one individual with a Class B MSW supervisor license. The commission made no changes to the rules in response to this comment.

*Comments to Subchapter J, Wastewater Operators and Operations Companies*

ECO commented that the word "daily" in §30.337(8), Definitions, may not be appropriate and in fact may not be necessary at all. A time frame such as daily does not appear in similar definitions of the subchapter. ECO recommends deleting the words "daily" and "frequent" from the definition.

The commission agrees in part, and has made some changes to the rule language. It is necessary to stipulate in the rule the frequency of supervision for collection system activities but the commission agrees that stating the frequency of supervision within the definition is not consistent with other rule definitions. For consistency, the required frequency of supervision for collection system activities has been added to §30.350(n) which has been amended to read "Each classified wastewater collection system must employ at least one licensed operator who holds a license class equal to or higher than that category of system. Wastewater collection system operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator."

ECO recommends deleting the phrase "wastewater system operations company."

The commission disagrees with the comment but recognizes this section should be stated more clearly. Section 30.355(b) has been amended to read "A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes."

## **SUBCHAPTER A. ADMINISTRATION OF OCCUPATIONAL LICENSES AND REGISTRATIONS**

**30 TAC §§30.3, 30.5, 30.7, 30.10, 30.14, 30.18, 30.20, 30.24,  
30.28, 30.30, 30.33**

### **STATUTORY AUTHORITY**

These amendments and new section are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new section are also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. These amendments and new section are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new section are also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required; TOC, §1904.051 concerning Water Treatment Specialist Certification Program; These amendments and new section are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concern-

ing Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new section are also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, these amendments and new section are adopted under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071 concerning Occupational Licensing and Registration.

These adopted amendments and new section implement TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001-37.015; TOC, §1903.251 and §1904.051; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

### *§30.5. General Provisions.*

(a) A person must be licensed or registered by the commission before engaging in an activity, occupation, or profession described by Texas Water Code, §§26.0301, 26.3573, 26.452, 26.456, or 37.003, Texas Health and Safety Code, §§341.033, 341.034, 341.102, 341.103, 361.027, 366.014, 366.071, 366.0515, or Texas Occupations Code, §1903.251 and §1904.051. The commission shall issue a license or registration only after an applicant has met the minimum requirements for a license or registration as specified in this chapter.

(b) A person shall not advertise or represent themselves to the public as a holder of a license or registration unless that person possesses a current license or registration. A person shall not advertise or represent to the public that it can perform services for which a license or registration is required unless it holds a current license or registration, or unless it employs individuals who hold current licenses.

(c) The executive director may contract with persons to provide services required by this chapter. The commission may authorize contractors to collect reasonable fees for the services provided.

(d) Licenses and registrations are not transferable.

(e) New licenses shall not be issued to employees of the commission who have regulatory authority over the rules of this chapter. Commission employees may maintain a license if that license was issued prior to employment with the commission.

### *§30.7. Definitions.*

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Approved training event--Instructor-led classroom training, conferences, seminars, workshops, training at association meetings, distance learning, or technology-based training that provides the knowledge and skills needed to perform occupational job tasks that have been reviewed and approved by the executive director.

(2) Aerobic treatment system owner--Persons that in their individual capacities own a single-family dwelling that is serviced by an on-site sewage disposal system using aerobic treatment.

(3) Conference--The term conference as used in the context of this chapter includes conferences, seminars, workshops, symposiums, expos, interactive video conferences and any other such training venues.

(4) Continuing education--Job-related training approved by the executive director used for renewal of licenses and registrations.

(5) Distance learning--The acquisition of knowledge that occurs through various technologies with a separation of place and/or time between the instructor(s) or learning resources and the learner. Examples of distance education include, but are not limited to correspondence courses, CD-ROM courses, and Internet education on-line courses.

(6) Distributor--Any person or nongovernmental organization that sells a product primarily to individuals maintaining occupational licenses administered by the agency.

(7) High school diploma or equivalent certificate--A graduation diploma from a high school or a General Educational Development (GED) certification from an accrediting agency recognized by the United States Department of Education or other respective territory's or country's accreditation process if outside the United States.

(8) Industry related association--A nonprofit organization that represents members that possess occupational licenses issued by the agency.

(9) License--An occupational license issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(10) Maintenance provider--A person that, for compensation provides service or maintenance for one or more on-site sewage disposal systems using aerobic treatment.

(11) Manufacturer--For the purpose of this subchapter any person, company, or nongovernmental organization that produces a product for sale primarily to individuals who maintain occupational licenses that are administered by the agency.

(12) Person--As defined in §3.2 of this title (relating to Definitions).

(13) Qualified classroom instructor--An individual who has instructional experience, work related experience, and subject matter expertise that enable the individual to communicate course information in a relevant, informed manner and to answer students' questions.

(14) Registration--An occupational registration issued by the commission to a person authorizing the person to engage in an activity covered by this chapter.

(15) Service provider--Any person, company, or nongovernmental organization that provides a service for its own profit to individuals who maintain occupational licenses that are administered by the agency.

(16) Subject matter expert--A person having a minimum of three years of work-related experience and expert knowledge in a particular content area or areas as relates to training.

(17) Training credit--Hours of credit allowed by the executive director for successful completion of an approved training event.

(18) Technology-based training--Training offered through computer equipment by compact disk (CD) or digital video disk (DVD) media, or on a Web site (also known as on-line training or e-learning).

(19) Training provider--An administrative entity or individual responsible for obtaining approval of training, providing acceptable delivery of approved training, ensuring that qualified instructors or subject matter experts are utilized in the delivery, support, and devel-

opment of training and monitoring, recording and reporting attendance accurately and promptly as required by the executive director.

#### §30.10. Administration.

The executive director is responsible for:

- (1) reviewing applications;
- (2) developing, administering, and grading examinations;
- (3) issuing and renewing licenses and registrations;
- (4) maintaining records related to licenses and registrations;
- (5) maintaining a roster of current licenses and registrations;
- (6) collecting fees;
- (7) approving training used for the issuance of training credits;
- (8) approving training providers; and
- (9) responding to complaints against licensees, registrants, and training providers.

#### §30.24. License and Registration Applications for Renewal.

(a) A license or registration may not be renewed if it has been:

- (1) expired for more than 30 days and an application has not been received by the executive director or postmarked within 30 days after the expiration date of the license or registration;
- (2) revoked; or
- (3) replaced by a higher class of license.

(b) Applications for renewal must be made on a standard form provided by the executive director.

(1) The executive director shall mail a renewal application at least 60 days before the license or registration expires to the most recent address provided to the executive director. If a person does not receive a renewal application, the person is not relieved of the responsibility to timely submit a renewal application.

(2) The person is responsible for ensuring that the completed renewal application, the renewal fee, and other required information are submitted to the executive director by the expiration date of the license or registration.

(c) All statements, qualifications, and attachments provided by the applicant that relate to a renewal application shall be true, accurate, complete, and contain no misrepresentation or falsification.

(d) The continuing education used to renew a license must be successfully completed after the issuance date and before the expiration date of the current license. Any training credits completed in excess of the amount required for the renewal period shall not be carried over to the next renewal period.

(e) The executive director may renew a license or registration if the application is received by the executive director or is postmarked within 30 days after the expiration date of the license or registration, and the person meets the requirements for renewal by the expiration date of the license or registration and pays all appropriate fees. This subsection does not extend the validity period of the license or registration nor grant the person authorization to perform duties requiring a license or registration. This subsection only allows an additional 30 days after the expiration of the license or registration for the person to submit the renewal application, any supporting documentation, and appropriate fees.

(f) An individual whose license renewal application is not received by the executive director or is not postmarked within 30 days after the license expiration date may not renew the license and must meet the current education, training, and experience requirements, submit a new application with the appropriate fee, and pass the examination. A person whose registration renewal application is not received by the executive director or is not postmarked within 30 days after the expiration date may not renew the registration and must submit a new application with the appropriate fee and meet all applicable requirements for a new registration.

(g) Persons failing to renew their license or registration in a timely manner due to serving on active duty in the United States armed forces outside this state may renew their license within 180 days of returning from active duty by submitting the following:

- (1) a completed renewal application;
- (2) a copy of the military orders substantiating the military service during the time the license expired; and
- (3) the applicable license renewal fee.

(h) For good cause the executive director may extend the 180-day period for individuals serving on active duty in the United States armed forces outside this state seeking to renew their license. Good cause may include, but is not limited to, hospitalization or injury to the licensee.

(i) Completion of the required continuing education will be waived for the renewal cycle while the licensee was on active duty service in the United States armed forces outside this state.

(j) These procedures apply only to individuals on active duty service in the United States armed forces outside this state and not to military contractors.

(k) All licensees must notify the executive director of any change in the previously submitted application information within ten days from the date the change occurs.

(l) All registration holders must notify the executive director of any change in the previously submitted application information within ten days after the month in which the change occurs.

(m) Licenses and registrations that have renewal cycles in transition shall follow the renewal requirements in the applicable subchapter.

(n) The executive director shall determine whether an applicant meets the renewal requirements of this subchapter. If all requirements have been met, the executive director shall renew the license or registration and send it to the applicant within 45 days after the date the executive director receives the renewal application.

(o) The license or registration shall be valid for the term specified.

(p) If the application does not meet the requirements, the executive director shall notify the applicant in writing of the deficiencies within 45 days after the date the executive director receives the renewal application.

(q) All deficiencies must be corrected within 30 days of date printed on the notification, or the renewal application shall be considered void after the license expiration date.

(r) A person whose license or registration has expired shall not engage in activities that require a license or registration until the license or registration is renewed or a new license or registration has been obtained.

#### *§30.28. Approval of Training.*

(a) The executive director shall approve training that provides the knowledge or skills necessary to obtain or maintain licenses or registrations that are issued by the commission. This training shall be directly related to tasks performed by persons whose duties require a license or registration in a program that is administered by the commission.

(1) Within 45 days of the receipt of an application for approval for conferences, or association meeting training, the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.

(2) Within 120 days of the receipt of an application for approval for classroom, distance learning or technology based training the executive director shall notify the training provider of the approval of the training or any deficiencies in the application or supporting documentation.

(b) Training credit may be approved by the executive director for successful completion of:

- (1) classroom training , and training at conferences;
- (2) computer or Web-based training, correspondence courses, or similar distance learning training;
- (3) training at association meetings, only when the meetings include training sessions containing subject matter related to the particular license; or
- (4) other professional activities, such as publication of articles or teaching classroom training courses.

(c) The executive director shall determine the number of hours of training credit that will be granted for approved training. The executive director may:

- (1) request field testing data from training providers to substantiate the hours requested; and
- (2) use subject matter expert qualifications to determine the training credit awarded.

(d) Applications for training approval or approval of new training material must:

- (1) be made on a standard form provided by the executive director;
- (2) be submitted to the executive director with the applicable fee found in the chart contained in subsection (x)(6) of this section;
- (3) be accompanied by supplemental information and materials according to the specific requirements for each type of training as approved by the executive director;
- (4) contain supplemental materials and information edited by subject matter experts; and
- (5) include samples of certificates of completion including information as required by the executive director.

(e) Once training is approved, a training provider may offer the training as approved without notification to the executive director.

(f) Training is considered approved until the content changes, or until the executive director notifies the training provider that changes in the content or presentation of the training event are necessary.

(g) If a training provider changes the delivery method of the training , the training must be resubmitted for review and approval by the executive director.

(h) The executive director may require training providers to update training or training materials to ensure that the content reflects current technology and practices.

(i) Training providers shall:

(1) keep manuals and training content updated to reflect rule changes;

(2) resubmit for approval training material that makes any reference to rules within 180 days of any new rule adoption that pertains to that training;

(3) resubmit materials with substantial changes for review and reapproval by the executive director accompanied by a summary, list, or other indication of significant changes;

(4) be responsible for the content and delivery of the training;

(5) retain accurate training records for a minimum of five years;

(6) maintain records of training approval throughout the entire period the training provider actively provides training;

(7) notify students of all fees associated with completing and obtaining credit for training before and during the training;

(8) accurately present to students approved training credit along with any other criteria for obtaining the credit;

(9) ensure that classroom instructors are qualified and provide the agency with instructor qualifications when requested;

(10) inform licensees that distance learning training repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment;

(11) allow agency staff or their agents access to training events in order to audit training content, manner of presentation, and instructor effectiveness and qualifications;

(12) verify participation and report the participant's training credit hours not to exceed approved training credit hours; and

(13) provide to the executive director electronic rosters of training events within 14 business days after a participant's successful completion of the training event per procedures provided and approved by the executive director.

(j) Training events shall not be advertised as approved until notice of approval is received from the executive director.

(k) The executive director may recall training for reevaluation which may result in rescinding the previous approval of the training.

(l) Training used to meet the requirements for obtaining or renewing a license must:

(1) be approved by the executive director before the training begins;

(2) provide the knowledge or skills necessary to perform one or more of the occupation's critical job tasks as determined by a job analysis or training needs assessment;

(3) not promote or endorse the products, product lines, or services of a manufacturer, distributor, or service provider or used as an opportunity for advertisement;

(4) provide the means to accomplish the learning objectives identified for the training;

(5) include, but are not limited to, visual aids, graphics, and interactivity to enhance learning and attain learning objectives;

(6) include regular monitoring of participant comprehension throughout the training with feedback from the training provider, instructor, or subject matter expert;

(7) be monitored for successful participant completion and completed training credit reported to the agency by the approved training provider; and

(8) utilize, at a minimum, subject matter experts and instructional design experts or effective qualified classroom instructors to develop training materials for approval. Additionally, development for technology-based training must also utilize experts in technology.

(m) Classroom training, training providers, and classroom instructors must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (n), (o), (p), (q), and (r) of this section.

(1) Classroom training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license. Water, wastewater, and solid waste facilities are exempted and applicable approved training may be held at these facilities.

(2) The agency may approve high school vocational education courses if their content follows the guidance of the respective licensing program area and meets training requirements in this chapter.

(n) Conference training, training providers, and subject matter experts must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (o), (p), (q), and (r) of this section.

(1) Training at conferences may be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations; or

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education.

(2) The executive director may award training credits for successful completion of in-state and out-of-state conferences.

(3) To receive training credits for in-state and out-of-state conferences, the training must be approved by the executive director prior to the conference.

(4) Training at conferences will be approved for a specified number of training credits.

(5) To be approved, a conference should contain a minimum of three hours of approvable training.

(6) If the executive director determines the conference training is more appropriately presented as classroom training, the training provider may be required to meet requirements as detailed in subsection (m) of this section.

(7) The conference is considered approved until content, presenters, or duration changes.

(8) The conference training must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.

(o) Training at association meetings, training providers, and subject matter experts must meet all requirements as detailed in this

section, but are exempt from the requirements in subsections (m), (n), (p), (q), and (r) of this section.

(1) Training sessions conducted at regular and special meetings of industry-related associations whose members hold licenses that are issued by the commission may be approved per event or on an annual basis.

(2) Associations may apply annually for approval of training at meetings. If not approved annually, training at individual meetings may be approved, so long as approval is requested in writing at least 45 days before the meeting as detailed in subsection (d) of this section.

(3) Training at association meetings must be presented by subject matter experts.

(4) Training at association meetings over two hours must meet requirements in subsection (n) of this section.

(5) The training at association meeting must not be held in a place of business of a product manufacturer, distributor, or service provider directly related to the occupational license.

(p) Distance learning training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), and (o) of this section.

(1) Distance learning training may only be submitted for approval by:

(A) governmental entities or their designated agents;

(B) industry-related associations;

(C) colleges listed by accrediting agencies that are recognized by the United States Department of Education; or

(D) other entities, as determined by the executive director, who can demonstrate comparable or subject matter expertise, knowledge of and experience with educational principles and effective instructional design.

(2) Applications for distance learning training approval must be accompanied by the supplemental materials as approved by the executive director for either correspondence or technology-based training.

(3) Distance learning training:

(A) may not be substituted for actual hands-on training, if hands-on training is necessary to teach required manual skills;

(B) must provide students within one business day access to subject matter experts;

(C) repeated within the renewal period will not receive training credit if the training uses the same performance-based assessment; and

(D) must maintain procedures to protect student identity if using the Internet.

(q) Correspondence training, training providers, and training materials must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (r) of this section. Correspondence training is distance learning that can either be paper-based conducted through a postal system, electronic-based conducted through a Web site, or a blend of these delivery systems and shall:

(1) make available a text or training manual to students for training with any delivery system; and

(2) provide acceptable procedures for participant identity verification.

(r) Technology-based training must meet all requirements as detailed in this section, but are exempt from the requirements in subsections (m), (n), (o), and (q) of this section, and shall:

(1) provide access to the agency if provided via the Internet;

(2) provide tracking of student time and progress required for training completion;

(3) provide acceptable procedures for participant identity verification; and

(4) provide access within one business day to technical support and subject matter experts.

(s) Printed training material should be presented in an original manner and must be relevant to the necessary tasks and knowledge for the occupational licensees.

(t) Public information copied from Web sites or other sources is not acceptable as training materials unless modified to be applicable to the target audience and the method of delivery.

(u) If training materials submitted to the executive director for approval are copyrighted materials, the training provider is responsible for obtaining proper approval from the publisher to reprint text, pictures, graphics, tables, data, and any other information that is obtained from a source that is not an original creation of the training provider. The training materials submitted shall include appropriate references.

(v) Under the Public Information Act, copyrighted training materials submitted to the executive director may be inspected by the public. The agency will not provide copies of copyrighted materials to the public unless required to do so as a result of legal action.

(w) The executive director may:

(1) return without approval, training courses and training material determined to contain extensive errors or not meeting the requirements of this section;

(2) monitor, recall, reevaluate, and/or rescind approval of topics or training materials provided at approved training; and

(3) recall rescind, suspend, or deny training approval for good cause, which includes, but is not limited to:

(A) the training does not conform to current accepted industry standard practices or agency rules;

(B) the training does not conform to the materials as approved;

(C) the subject matter is not related to critical job tasks performed by licensees;

(D) an instructor is not qualified to teach the subject matter;

(E) an instructor is ineffective in the delivery of the subject matter;

(F) the training promotes or endorses products, product lines, or services from a manufacturer, distributor, or service provider;

(G) participation records are not submitted as required by subsection (i)(13) of this section;

(H) records, rosters, or application materials have been falsified;

(I) noncompliance with a training recall;

(J) the training provider is not active or the training has not been conducted for three or more years; or

(K) the training environment is not conducive to learning.

(x) Fees for training approval will be assessed based on requested training credit hours available for the event with the exception of annual review and approval of training at association meetings. If the requested hours are significantly different than the actual hours of training awarded, the executive director may request an adjustment in the fee from the applicant.

(1) Fees should be submitted with the application and supplemental materials as detailed in paragraph (6) of this subsection.

(2) Fees are nonrefundable whether the training event is approved or not approved.

(3) The review and approval of training may require both an administrative review for application package completeness and a technical review for compliance with the requirements and standards detailed in this section. The fee will include both of these reviews.

(4) The application will become void and the fee forfeited if an applicant does not respond within 60 days of the notification provided by the executive director of any deficiencies in the application.

(5) Any training material submitted for approval after January 1, 2008, requires submittal of the applicable fees listed in paragraph (6) of this subsection.

(6) The greater of the following fees should be submitted with each application for approval of training for occupational licensing depending on the type of training as outlined in the following table. Figure: 30 TAC §30.28(x)(6)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704126

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



### 30 TAC §30.28

#### STATUTORY AUTHORITY

The repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing; TWC, §26.346, concerning Registration Requirements; TWC, §26.452, concerning Underground Storage Tank Contractor; TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing; and TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account.

This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required; TOC, §1904.051 concerning Water Treatment Specialist Certification Program; This repeal is also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies; THSC, §341.102, concerning Water Treatment Specialist Certification Program; THSC, §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction; Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties. Finally, this repeal is adopted under THSC, §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, 26.346, 26.452, 26.456, 26.3573, 37.001 - 37.015; TOC, §1903.251; and THSC, §§341.033, 341.034, 341.102, 361.002, 361.011, 361.022, 361.024, 361.027, 363.021, 363.022, 366.011, 366.012, and 366.071.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704127

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER B. BACKFLOW PREVENTION ASSEMBLY TESTERS

### 30 TAC §30.51, §30.60

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Quali-

cations; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704128

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER C. CUSTOMER SERVICE INSPECTORS

### 30 TAC §§30.81, 30.90, 30.92

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37 §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704129

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER D. LANDSCAPE IRRIGATORS AND INSTALLERS

### 30 TAC §§30.111, 30.120, 30.122, 30.129

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments are finally adopted under the Texas Occupations Code (TOC), §1903.251, concerning License Required.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704130

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



### 30 TAC §30.125

#### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Occupations Code (TOC), §1903.251, concerning License Required.



This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and TOC, §1903.251.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704131

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER E. LEAKING PETROLEUM STORAGE TANK CORRECTIVE ACTION PROJECT MANAGERS AND SPECIALISTS

**30 TAC §§30.171, 30.180, 30.185, 30.190, 30.192**

### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, §26.3573, concerning Petroleum Storage Tank Remediation Account. Finally, these amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 26.3573, and 37.001 - 37.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704132

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER F. MUNICIPAL SOLID WASTE FACILITY SUPERVISORS

**30 TAC §§30.201, 30.210, 30.212 - 30.214**

### STATUTORY AUTHORITY

These amendments and new sections are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments and new sections are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. These amendments and new sections are also adopted under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. These amendments and new sections are also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

These adopted amendments and new sections implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

*§30.213. Classification of Municipal Solid Waste Facilities and Level of License Required.*

(a) Each classification of a municipal solid waste (MSW) facility shall employ at least one licensed individual who supervises or manages the operations of a MSW facility. The level of license required for the different classifications of facilities is as follows:  
Figure: 30 TAC §30.213(a)

(b) The level of license required for the different classifications of facilities described in subsection (a) of this section are applicable unless the facility's permit specifies that the facility be supervised by a level of supervisor different from that required in subsection (a) of this section. The facility's permit supersedes the requirement in subsection (a) of this section.

(c) All MSW facilities that are required to have a licensed supervisor may operate that facility with its current licensed supervisors until August 31, 2009. Beginning September 1, 2009, all MSW facilities required to have a licensed supervisor who holds a certain license level must meet the requirement of this subchapter.

(d) MSW facilities that have a supervisor who holds a provisional or solid waste facility supervisor in training letter may continue to operate with that letter until the provisional or solid waste facility supervisor in training letter expires. The facility shall then ensure that at least one individual who supervises or manages the operation of a MSW facility meets the requirements of this subchapter.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704133

Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



### 30 TAC §30.210

#### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Health and Safety Code (THSC), §361.002, concerning Policy; Findings; THSC, §361.011, concerning Commission's Jurisdiction: Municipal Solid Waste; THSC, §361.022, concerning Public Policy Concerning Municipal Solid Waste and Sludge; THSC, §361.024, concerning Rules and Standards; THSC, §361.027, concerning Licensure of Solid Waste Facility Supervisors. This repeal is also adopted under THSC, §363.021, concerning Commission Rulemaking Authority; and THSC, §363.022, concerning Commission Powers and Duties.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§361.002, 361.011, 361.022, 361.024, 361.027, 363.021, and 363.022.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704134  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



### SUBCHAPTER G. ON-SITE SEWAGE FACILITIES INSTALLERS, APPRENTICES, DESIGNATED REPRESENTATIVES, MAINTENANCE PROVIDERS, AND SITE EVALUATORS

### 30 TAC §§30.231, 30.240, 30.242, 30.244, 30.245, 30.247

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are adopted under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704135  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



### 30 TAC §30.246

#### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, this repeal is adopted under Texas Health and Safety Code (THSC), §366.011, concerning General Supervision and Authority; THSC, §366.012, concerning Rules Concerning On-Site Sewage Disposal Systems; and THSC, §366.071, concerning Occupational Licensing and Registration.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §§366.011, 366.012, and 366.071.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704136

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER H. WATER TREATMENT SPECIALISTS

**30 TAC §§30.261, 30.270, 30.272, 30.274**

### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Additionally, these amendments are also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water supplies; and Texas Occupations Code (TOC), Chapter 1904, concerning Water Treatment Specialist Certification Program.

The adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; TOC, Chapter 1904; and THSC, §341.033 and §341.034.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704137

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



## SUBCHAPTER I. UNDERGROUND STORAGE TANK ON-SITE SUPERVISOR LICENSING AND CONTRACTOR REGISTRATION

**30 TAC §§30.301, 30.307, 30.310, 30.312, 30.315, 30.317, 30.319**

### STATUTORY AUTHORITY

These amendments and new section are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. Additionally, these amendments and new section are also adopted under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing. Finally, these amendments and new section are adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

The adopted amendments and new section implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704138

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Effective date: September 27, 2007

Proposal publication date: April 13, 2007

For further information, please call: (512) 239-6087



**30 TAC §30.318, §30.319**

### STATUTORY AUTHORITY

These repeals are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. Additionally, the repeals are adopted under TWC, §26.452, concerning Underground Storage Tank Contractor; and TWC, §26.456, concerning Underground Storage Tank On-Site Supervisor Licensing. Finally, these repeals are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted repeals implement TWC, §§5.013, 5.102, 5.103, 26.452, 26.456, and 37.001 - 37.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704139

Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



## SUBCHAPTER J. WASTEWATER OPERATORS AND OPERATIONS COMPANIES

### 30 TAC §§30.337, 30.340, 30.342, 30.350, 30.355

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, these amendments are adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

*§30.350. Classification of Wastewater Treatment Facilities, Wastewater Collection Systems, and Licenses Required.*

(a) Operators of remote or mobile sludge processing facilities are required to hold a valid Class D or higher license.

(b) Operators of domestic wastewater treatment facilities owned and located on industrial sites that are regulated by industrial-type wastewater disposal permits are required to be licensed, only if the point of discharge is separate from any other industrial outfalls and the domestic wastewater is not mixed with other industrial wastewater before discharge.

(c) An individual first entering the field of wastewater treatment or collection may be employed as an operator-in-training for a period up to one year. An operator-in-training must perform all process control tasks in the presence of a licensed operator.

(d) Each holder of a wastewater disposal permit for a wastewater treatment facility shall employ or contract with one or more licensed wastewater treatment facility operators holding the appropriate level of license or wastewater system operations companies holding a valid registration and employing licensed wastewater treatment facility operators holding the appropriate level of license.

(e) Domestic wastewater treatment facilities will be classified in accordance with the following criteria.  
Figure: 30 TAC §30.350(e) (No change.)

(f) Category D wastewater treatment facilities shall be reclassified as Category C facilities if any of the following conditions exist:

(1) a Category D facility incorporating anaerobic sludge digestion, except Imhoff tanks with sludge drawn off to drying beds;

(2) a Category D facility whose permit requires nutrient reduction; or

(3) a Category D facility whose permit requires the final effluent to meet a daily average biochemical oxygen demand<sub>5</sub> or total suspended solids concentration less than ten milligrams per liter.

(g) A wastewater treatment facility having a combination of treatment processes that are in different categories shall be assigned the higher category.

(h) The executive director may increase the treatment facility classification for facilities which include unusually complex processes or present unusual operation or maintenance conditions.

(i) The chief operator of each wastewater treatment facility must possess a license equal to or higher than that of the category of treatment facility.

(j) Each category of facility must be operated a minimum of five days per week by the licensed chief operator or an operator holding the required level of license or higher. The licensed chief operator or operator holding the required level of license or higher must be available by telephone or pager seven days per week.

(k) When shift operation of the wastewater treatment facility is necessary, each shift must be operated by an operator in charge who is licensed at not less than one level below the category of the facility.

(l) Either the licensed chief operator or licensed operator in charge must be present for scheduled commission inspections.

(m) A licensed wastewater treatment facility operator may perform all duties relating to the operation and maintenance of both wastewater treatment facilities and wastewater collection systems. It is not necessary to hold both types of licenses. A licensed collection system operator may perform only those duties relating to the operation and maintenance of wastewater collection systems.

(n) Each classified wastewater collection system must employ at least one licensed operator who holds a license class equal to or higher than that category of system. Wastewater collection system operation and maintenance activities shall be supervised and inspected daily by an on-site licensed wastewater operator. Wastewater collection systems shall be classified as follows.

Figure: 30 TAC §30.350(n) (No change.)

*§30.355. Additional Requirements for Wastewater Operations Companies.*

(a) When a wastewater operations company submits an application to obtain or renew a registration, it must submit a report to the executive director. For each wastewater treatment facility or wastewater collection system the report shall include:

- (1) the operations company name, location, and mailing address;
- (2) the permittee's name and mailing addresses;
- (3) the commission permit number, if applicable;
- (4) the dates of operation during the registration validity period;
- (5) the names and license numbers of all licensed operators employed by the operations company;
- (6) the name of the licensed chief operator for each facility; and
- (7) any additional information required by the executive director.

(b) A registered wastewater system operations company must apply for a new registration and submit an amended report if the company is bought or sold and the name of the company changes.

(c) Wastewater system operations companies shall pay a three year registration fee based on the number of facilities and collection systems served as indicated in the following table.  
Figure: 30 TAC §30.355(c)

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704140  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



### 30 TAC §30.349

#### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, §26.0301, concerning Wastewater Operations Company Registrations and Operator Licensing. Finally, this repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 26.0301, and 37.001 - 37.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704141  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



## SUBCHAPTER K. PUBLIC WATER SYSTEM OPERATORS AND OPERATIONS COMPANIES

### 30 TAC §§30.381, 30.387, 30.390, 30.392, 30.400

#### STATUTORY AUTHORITY

These amendments are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These amendments are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. Finally, these amendments are adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

These adopted amendments implement TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704142  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



### 30 TAC §30.399

#### STATUTORY AUTHORITY

This repeal is adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. This repeal is also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract. This repeal is also adopted under Texas Health and Safety Code (THSC), §341.033, concerning Protection of Public Water Supplies; and THSC, §341.034, concerning Licensing and Registration of Persons who Perform Duties Relating to Public Water Supplies.

This adopted repeal implements TWC, §§5.013, 5.102, 5.103, 37.001 - 37.015; and THSC, §341.033 and §341.034.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704143

Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



## SUBCHAPTER L. VISIBLE EMISSIONS EVALUATOR TRAINING AND CERTIFICATION

### 30 TAC §§30.500 - 30.508

#### STATUTORY AUTHORITY

These new sections are adopted under Texas Water Code (TWC), §5.013, concerning the General Jurisdiction of the Commission; TWC, §5.102, concerning General Powers; and TWC, §5.103, concerning Rules. These new sections are also adopted under TWC, Chapter 37, §§37.001 - 37.015, concerning: Definitions; Rules; License or Registration Required; Qualifications; Issuance and Denial of Licenses and Registrations; Renewal of License or Registration; Licensing Examinations; Training; Continuing Education; Fees; Advertising; Complaints; Compliance Information; Practice of Occupation; Roster of License Holders and Registrants; and Power to Contract.

These adopted new sections implement TWC, §§5.013, 5.102, 5.103, and 37.001 - 37.015.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704144  
Robert Martinez  
Director, Environmental Law Division  
Texas Commission on Environmental Quality  
Effective date: September 27, 2007  
Proposal publication date: April 13, 2007  
For further information, please call: (512) 239-6087



## TITLE 31. NATURAL RESOURCES AND CONSERVATION

### PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT

#### CHAPTER 59. PARKS

#### SUBCHAPTER K. ACCEPTANCE OF DONATED LAND

### 31 TAC §59.330

The Texas Parks and Wildlife Commission adopts new §59.330, concerning Eligibility of Donated Land for Acceptance and Inclusion in State Park System, without changes to the proposed text as published in the July 20, 2007, issue of the *Texas Register* (32 TexReg 4526).

The new section is necessary to implement the requirements of House Bill 12, enacted by the 80th Texas Legislature. House Bill 12 amended Parks and Wildlife Code, Chapter 13, by adding §13.0075, which requires the commission to adopt criteria by rule for determining the eligibility of real property that is donated to the department for inclusion in the state park system.

Among the purposes of the state park system is the management and conservation of natural and cultural resources and providing outdoor recreational opportunities, contact with and understanding of the natural world, and awareness of the diverse cultural and historical resources that make Texas unique. The state parks system consists of state parks, state natural areas and state historic sites.

The new rule establishes eligibility criteria for the acceptance of land donated for inclusion in the state park system. To be considered for inclusion in the state parks system, the prospective donation should substantively address specific criteria. To that end, the new rule establishes six general categories for evaluating the suitability of donated land for inclusion in the state park system: contiguity to existing parkland, recreational value, natural resource value, historical value, and size, as well as ancillary values. To some extent, the criteria are interrelated, but if a prospective donation satisfies any criteria, it is a candidate for inclusion in the state park system.

In general, the department will consider accepting lands that are near, adjacent to, or within the boundaries of existing parkland in order to expand, consolidate, or augment the values of existing parkland. In the department's view, this is a prudent practice. In most instances, the addition of land to existing park facilities will not significantly increase the department's operating costs since the added land usually can be managed by existing staff. Also, the acceptance of land adjacent to existing parkland often helps to address access issues, provide a buffer to development, and preserve or enhance the values of existing parkland.

The recreational value of donated land is a high priority. The types of features that the public typically finds appealing are those that allow for popular outdoor activities. One of the most appealing features is water. In many parts of Texas, the climate is conducive to swimming, boating, and fishing almost year round. Therefore, the presence of a water feature capable of sustaining recreational use is an important factor in considering the acceptance of a donation. Along the same lines, lands that present interesting or aesthetically pleasing landscape features are typically high-demand areas for recreation, including hiking, camping, and nature viewing. This also would include other features such as caverns and sinkholes, and areas offering impressive or panoramic views of the surrounding countryside. Similarly, cultural resources are important. Archeologically or architecturally significant structures or buildings that relate to pre-European and colonial heritage or are representative of a particular era or way of life are an important tool in informing and educating the public about the people who made Texas home in preceding generations. A potential donation offering significant additional opportunity for these activities would therefore be attractive to the department.

Natural resource value is also an important factor to consider in a donation. Texas is ecologically varied, encompassing mountains, deserts, prairies, karst topography, coniferous forests, wetlands, and coastal areas which are habitats for hundreds of species of animals and plants as well as for humans past and present. A prospective donation that offered the opportunity to significantly enhance the department's inventory with regard

to natural resource value would therefore be considered for acceptance.

Texas has a rich past that is reflected in and informs the present. Property that has significant historical value is therefore useful in illustrating the cultural themes of Texas or national heritage, the political, economic, military, or social history of Texas, or aspects of historic or prehistoric people and events. Prospective donations that would help the department in reflecting the rich heritage of the state would therefore be considered for acceptance.

The department will also consider accepting prospective donations of land if the property offers significant ancillary value, but otherwise does not substantially satisfy the other criteria. For instance, if a piece of land functions as a travel corridor or harbor for wildlife, offers an impressive view, or is in an important or critical watershed, the department would consider acceptance. Also, the department will consider land that would function as a buffer between development and existing parkland.

The size of a prospective property is important. A large parcel of land that satisfies the criteria of the proposed new rule, provided it is not irreparably damaged, polluted, or would require large amounts of money to be made fit for recreational opportunity, is preferred, but a small parcel could be accepted if it meets any of the criteria established by the proposed new rule.

As noted, the listed criteria are often interrelated. For example, many of the features that contribute to the recreational value or natural resource value of land also contribute to historical or interpretive value of the land. For example, while water features may contribute to land's recreational value, a water feature may also provide an opportunity to educate the public about the role of water in sustaining Texas' natural resources. Likewise, landscape features and cultural resources that contribute to land's recreational value, also contribute to the land's natural resource value and enhance the department's ability to provide lessons in science and history. Similarly, land that is contiguous to existing parkland may also address ancillary values, by enhancing viewsheds or providing buffers from development.

Subsection (b) of the new rule provides that in addition to the criteria established in that subsection, the department will consider whether the acceptance of the donated land for inclusion in the state parks system would contribute to the goals established in the department's Land and Water Resources Conservation and Recreation Plan. In 2001, the 77th Texas Legislature enacted Parks and Wildlife Code, §11.104, directing the department to develop a Land and Water Resources Conservation and Recreation Plan (the Plan). In November 2002, the first Plan was adopted. A revised Plan was adopted by the Commission in January 2005. The Plan is intended to provide strategic direction for the department. Among other things, the Plan addresses conservation and recreation priorities for the department.

Subsection (c) of the new rule clarifies that the rule is intended to address only the acceptance of donated land for inclusion in the state parks system. The department may accept land or an interest in land for purposes other than inclusion in the state parks system. For example, the department may accept real property for purposes of wildlife management, operation of a fish hatchery, or law enforcement training.

Subsection (d) of the new rule stipulates that the department is not compelled to accept a prospective donation simply because the land meets one or more of the criteria of the new rule. If some provision of the donation such as a deed restriction or covenant

would preclude the effective use of the land as parkland, or if the acceptance of the property would result in an increase in operating or maintenance costs, the department could choose not to accept the donation.

Subsection (e) of the new rule stipulates that the decision to accept or decline donated land for inclusion in the state park system would be solely at the discretion of the Texas Parks and Wildlife Commission. The department does not wish for the new rule to suggest to anyone that land can be donated to or declined by any entity other than the body that is statutorily constituted for that purpose.

The new rule will function by establishing criteria for determining the eligibility of real property that is donated to the department for inclusion in the state park system.

The department received two comments opposing adoption of the proposed new rule. Neither commenter offered an explanation or rationale for opposing adoption. No changes were made as a result of the comment.

The department received 18 comments supporting adoption of the proposed new rule.

The new rule is adopted under the provisions of House Bill 12 as enacted by the 80th Texas Legislature, which added Parks and Wildlife Code, §13.0075, requiring the commission to adopt criteria by rule for determining the eligibility of real property that is donated to the department for inclusion in the state park system.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704158

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Effective date: September 27, 2007

Proposal publication date: July 20, 2007

For further information, please call: (512) 389-4775



## CHAPTER 65. WILDLIFE

### SUBCHAPTER A. STATEWIDE HUNTING AND FISHING PROCLAMATION

#### DIVISION 1. GENERAL PROVISIONS

##### 31 TAC §65.11

The Texas Parks and Wildlife Commission adopts an amendment to §65.11, concerning Lawful Means, with changes to the proposed text as published in the July 6, 2007, issue of the *Texas Register* (32 TexReg 4183).

The change adds language to allow for a statement of legal blindness to be furnished by an optometrist. The change is necessary because optometrists are licensed to examine, diagnose, and treat visual conditions.

The rule is necessary to comply with the provisions of provisions of House Bill (H.B.) 308, enacted by the 80th Texas Legislature, which authorizes the use of laser sighting devices by

hunters who are legally blind under the standards of Government Code, §62.104, provided the hunter is accompanied by a licensed hunter at least 13 years of age or older who is not legally blind. Under the terms of H.B. 308, the department is required to adopt rules to prescribe proof of legal blindness. Legal blindness is defined by Government Code, §62.104, as: no more than 20/200 of visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200, but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

The amendment will function by requiring a hunter who uses a laser sighting device to possess a signed statement from a physician or optometrist attesting to the fact that the hunter is legally blind under the standards of Government Code, §62.104.

The department received 15 comments opposing adoption of the amendment. Of those comments, 12 stated an explanation or rationale for opposing adoption. Those comments, accompanied by the department's response to each, are as follows.

Three commenters opposed adoption and stated that blind people should not be hunting. The department disagrees with the comments and responds that there is no provision in law that prohibits a blind person from hunting. No changes were made as a result of the comments.

Two commenters opposed adoption and stated that the safety of other people would be compromised, and that having a sighted assistant would not decrease the risk. The department disagrees with the comments and responds that the commission cannot alter or eliminate the provisions of the statute. Also, the department has no information indicating that a hunter who complies with the law and these rules would impose a greater safety risk. No changes were made as a result of the comments.

Four commenters opposed adoption and stated that 13 years of age is too young for such a responsibility. The department disagrees with the comments and responds that the commission cannot alter or eliminate the provisions of the statute. No changes were made as a result of the comments.

One commenter opposed adoption and stated that the department should repeal Parks and Wildlife Code, §62.0055. The department disagrees with the comment and responds that only the legislature has the authority to enact changes to the Parks and Wildlife Code. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the new rule compromises fair chase and that if laser sights are made lawful for the blind, they should be made lawful to all hunters. The department disagrees with the comment and responds that the commission cannot alter or eliminate the provisions of the statute. No changes were made as a result of the comment.

One commenter opposed adoption and stated that the rule would be too difficult to enforce. The department disagrees with the commenter and responds that it does not believe enforcement will be difficult. Any person hunting with the aid of a laser sighting device must be accompanied by an appropriate companion and must have documentation of legal blindness. No changes were made as a result of the comment.

The department received 15 comments supporting adoption of the proposed amendment.

The Texas Wildlife Association supported adoption of the proposed amendment.

The amendment is adopted under the authority of House Bill 308, 80th Texas Legislature (Regular Session) which amended Parks and Wildlife Code, Chapter 62, §62.0055, to require the department by rule to prescribe acceptable proof of legal blindness for the purposes of allowing legally blind hunters to use laser sighting devices.

*§65.11. Lawful Means.*

It is unlawful to hunt any of the wildlife resources of this state except by the means authorized by this section and as provided in §65.19 of this title (relating to Hunting Deer with Dogs).

(1) Firearms.

(A) It is lawful to hunt alligators, game animals, and game birds with any legal firearm, including muzzleloading weapons, except as specifically restricted in this section.

(B) Special muzzleloader-only deer seasons are restricted to muzzleloading firearms only.

(C) It is unlawful to use rimfire ammunition to hunt alligator, deer, antelope, or desert bighorn sheep.

(D) It is unlawful to hunt alligators, game animals or game birds with a fully automatic firearm or any firearm equipped with a silencer or sound-suppressing device.

(E) In Angelina, Brazoria, Calhoun, Chambers, Galveston, Hardin, Jackson, Jasper, Jefferson, Liberty, Matagorda, Nacogdoches, Newton, Orange, Polk, Refugio, Sabine, San Augustine, San Jacinto, Trinity, Tyler and Victoria counties, alligators may not be hunted by means of firearms. In all other counties, alligators may be hunted by means of firearms on private property, including private waters, but may not be hunted by means of firearms from, on, in, across, or over public water.

(F) Alligators lawfully caught on a taking device may be dispatched by means of firearms in all counties.

(2) Archery.

(A) A person may hunt by means of lawful archery equipment during any open season; however, no person shall hunt deer by lawful archery equipment or crossbow during a special muzzleloader-only deer season.

(B) Arrows that are treated with poisons or drugs, or that contain explosives are not lawful devices for hunting any species of wildlife resource in this state.

(C) While hunting turkey and all game animals other than squirrels by means of longbow, compound bow, or recurved bow:

(i) the bow must have a minimum peak draw weight of 40 pounds at the time of hunting; and

(ii) the arrow must be equipped with a broadhead hunting point at least 7/8-inch in width upon impact, with a minimum of two cutting edges. A mechanical broadhead must begin to open upon impact and when open must be a minimum of 7/8-inch in width.

(D) It is unlawful to hunt deer or turkey with a broadhead hunting point while in possession of a firearm during an archery-only season.

(E) Special archery-only seasons are restricted to lawful archery equipment only, except as provided in paragraph (3) of this section.

(3) Crossbow. Crossbows are lawful during any general open season. A person having an upper-limb disability may use a crossbow to hunt deer and turkey during an archery-only season, provided



the person has in their immediate possession a physician's statement certifying the extent of the disability. When hunting turkey and all game animals other than squirrels by means of crossbow:

- (A) the crossbow must have a minimum of 125 pounds of pull;
- (B) the crossbow must have a mechanical safety;
- (C) the crossbow stock must be not less than 25 inches in length; and
- (D) the bolt must conform with paragraphs (2)(B) and (2)(C)(ii) of this section.

(4) Falconry. It is lawful to hunt any game bird or game animal by means of falconry under the provisions of Subchapter K of this chapter (relating to Raptor Proclamation).

(5) Alligator.

(A) Legal devices for taking alligators in the wild are as follows:

- (i) hook and line (line set);
- (ii) alligator gig;
- (iii) lawful archery equipment and barbed arrow;
- (iv) hand-held snare with integral locking mechanism; and
- (v) lawful firearms, in counties where take by firearm is allowed.

(B) A line of at least 300-pound test shall be securely attached to all taking devices other than firearms used to hunt alligators. Except as provided in this subsection, hook-bearing lines must be attached to a stationary object capable of maintaining a portion of the line above water when an alligator is caught on the line. A line attached to an arrow, snare, or gig must have a float attached when used to take alligators. The float shall be no less than six inches by six inches by eight inches, or, if the float is spherical, no less than eight inches in diameter.

(C) Line-set provisions.

(i) Hook-bearing lines may not be set prior to the general open season and shall be removed no later than sunset of the last day of the open season.

(ii) From sunset to one-half hour before sunrise:

(I) no person shall use any taking device other than line sets to hunt alligators; and

(II) no person shall set any baited line capable of taking an alligator and no person shall remove alligators from line sets.

(iii) On a property for which the department has issued hide tags, no person shall set more than one line per unused hide tag in possession.

(iv) On a property that is not in a county listed in paragraph (1)(E) of this section and for which the department has not issued hide tags, no person shall set more than one line.

(v) Line sets shall be inspected daily, and alligators shall be killed, tagged or documented, and removed immediately upon discovery.

(vi) All line sets on properties for which hide tags have been issued shall be secured at one end on the tract of land specified for the hide tags. All other line sets shall be secured at one end on private property.

(vii) Each baited line shall be labeled with a plainly visible, permanent, and legibly marked gear tag that contains:

(I) the full name and current address of the person who set the line;

(II) the hunting license number of the person who set the line; and

(III) a valid hide tag number, if the line is set on a property for which hide tags have been issued.

(6) Use of laser sighting devices.

(A) A person who is legally blind may use a laser sighting device to hunt game animals and game birds during lawful hunting hours in open seasons, provided the person is assisted by a person who:

- (i) is not legally blind;
- (ii) has a hunting license; and
- (iii) is at least 13 years of age.

(B) A person who uses a laser sighting device must have in possession a signed statement from a physician or optometrist to the effect that the person is legally blind by the standard of Government Code, §62.104, and must present the statement to any peace officer or department employee acting within the scope of official duties.

(C) All provisions concerning hunter education requirements apply.

(7) Special Provisions.

(A) Desert bighorn sheep. Except as provided in this paragraph, no motorized conveyance of any type shall be used to herd or harass desert bighorn sheep.

(B) Hunting by remote control. It is an offense for any person to hunt a wildlife resource by the means listed in this section if that person is not physically present and personally operating the means of take at the location where the hunting occurs during the time that the hunting occurs.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 7, 2007.

TRD-200704157

Ann Bright

General Counsel

Texas Parks and Wildlife Department

Effective date: September 27, 2007

Proposal publication date: July 6, 2007

For further information, please call: (512) 389-4775



# REVIEW OF AGENCY RULES

notices of *intention to review*, which invite public comment to specified rules; and (3) notices of *readoption*, which summarize public comment to specified rules. The complete text of an agency's *plan to review* is available after it is filed with the Secretary of State on the Secretary of State's web site (<http://www.sos.state.tx.us/texreg>). The complete text of an agency's rule being reviewed and considered for *readoption* is available in the *Texas Administrative Code* on the web site (<http://www.sos.state.tx.us/tac>).

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the web site and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

Office of the Attorney General

### Title 1, Part 3

The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 53, Municipal Securities. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 53, Municipal Securities, Subchapter A, Approval of Municipal Securities by Attorney General, §§53.1 - 53.30; Subchapter B, Approval of City and County General Obligation Bonds, §53.41 and §53.42; Subchapter C, Approval of City Revenue Bonds, Notes, and Warrants, §53.51; Subchapter D, Approval of School District Bonds, §53.61 and §53.62; Subchapter E, Approval of Issues of Certificates of Obligation, §§53.71 - 53.88; Subchapter F, Approval of Municipal Utility District Bonds, §§53.101 - 53.111; Subchapter G, Approval of Pollution Control Bonds and Bonds Issued Pursuant to River Authority Supply Contracts, §53.131; Subchapter H, Approval of Bonds Issued by Institutions of Higher Education, §§53.141 - 53.143; Subchapter I, Approval of Bonds to be Issued by Local Government for the Construction of Sports Centers, §53.151 and §53.152; Subchapter J, Requirements of the Approval of Securities with Respect to Criminal Justice Facilities, §§53.161 - 53.165; Subchapter K, Approval of San Antonio River Authority and Pollution Control District Bonds, §53.171; Subchapter L, General Requirements for Nonprofit Corporation Bonds, §§53.181 - 53.184; Subchapter M, Development Corporation Bonds, §§53.193 - 53.200; Subchapter N, Health Facilities Development Corporation Bonds, §§53.211 - 53.217; Subchapter O, Housing Finance Corporation Bonds, §§53.227 - 53.233; and Subchapter P, Other Corporation Bonds, §§53.244 - 53.250.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Tom Griess, Assistant Attorney General, Public Finance Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-2929, [thomas.griess@oag.state.tx.us](mailto:thomas.griess@oag.state.tx.us). Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

This section contains notices of state agency rules review as directed by the Texas Government Code, §2001.039. Included here are (1) notices of *plan to review*; (2)

TRD-200704145

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 55 Child Support Enforcement. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 55 Child Support Enforcement, Subchapter A General Guidelines; Subchapter B Locate-Only Services; Subchapter C Administrative Review; Subchapter D Forms for Child Support Enforcement; Subchapter F Collections and Distributions; Subchapter G Authorized Costs and Fees in IV-D Cases; Subchapter H License Suspension; Subchapter I State Directory of New Hires; Subchapter J Voluntary Paternity Acknowledgment Process; Subchapter K Release of Information; Subchapter L Financial Institution Data Matches; Subchapter M Intercept of Insurance Claims; Subchapter N National Medical Support Notice; and Subchapter O State Disbursement Unit.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Kathy Shafer, Deputy Director, Legal Counsel Division, Office of the Attorney General, (physical address) 5500 East Oltorf, Austin, Texas 78741, or (mailing address) P.O. Box 12017, Mail Code 044, Austin, Texas 78711-2017, (512) 460-6134, [kathy.shafer@oag.state.tx.us](mailto:kathy.shafer@oag.state.tx.us). Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704123

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 57, Rental-Purchase Act Compliance. The text of the rule section will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 57, Rental-Purchase Act Compliance, §57.1 Rental Purchase Form Agreement.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Paul Carmona, Division Chief, Consumer Protection and Public Health Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-2185, paul.carmona@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704146

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 7, 2007

The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 58, Physician Joint Negotiation. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 58, Physician Joint Negotiation, Subchapter A, General, §§58.1 - 58.6; Subchapter B, Application Requirements, §§58.11 - 58.13; Subchapter C, Review of Application, §§58.21 - 58.26; Subchapter D, Review of Proposed Contracts, 58.31 - 58.33; Subchapter E, Remedial Measures, §58.41 and §58.42; and Subchapter F, Subsequent Negotiations and Contract Modifications, 58.51 - 58.53.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Mark Tobey, Division Chief, Antitrust and Civil Medicaid Fraud Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 463-1262, mark.tobey@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704147

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 7, 2007

The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 59, Collections. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 59, Collections, §59.1, Lawsuit Authorization by Local Taxing Authorities; §59.2, Collections Process: Uniform Guidelines and Referral of Delinquent Collections; and §59.3, Reporting Delinquent Obligations Owed to the State.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Ronald Del Vento, Division Chief, Bankruptcy and Collections Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-4936, ronald.delvento@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704148

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: September 7, 2007

The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 60, Texas Crime Victim Services Grant Programs. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposed to review Chapter 60, Texas Crime Victim Services Grant Programs, Subchapter A, General Provisions and Eligibility, §§60.1 - 60.17; Subchapter B, Application, Review and Award Process, §§60.100 - 60.103; Subchapter C, Grant Budget Requirements, §§60.200 - 60.209; Subchapter D, Required Attachments, §60.300 and §60.301; Subchapter E, Administering Grants, §§60.400 - 60.409; and Subchapter F, Program Monitoring and Auditing, §§60.500 - 60.503.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Rita Baranowski, Assistant Attorney General, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12198, Austin, Texas 78711-2198, (512) 936-1240, rita.baranowski@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704149  
Stacey Napier  
Deputy Attorney General  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 61, Crime Victims' Compensation. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 61, Crime Victims' Compensation, Subchapter A, Scope and Construction of Rules and General Provisions, §§61.1 - 61.4; Subchapter B, Definitions, §61.101; Subchapter C, Application, §§61.201 - 61.203; Subchapter D, Denial or Reduction of Award, §§61.301 - 61.303; Subchapter E, Pecuniary Loss, §§61.401 - 61.413; Subchapter F, Medical Care, §§61.501 - 61.508; Subchapter G, Relocation and Housing Rental Expenses Benefits, §61.601 and §61.602; Subchapter H, Compensation to Certain Disabled Peace Officers, §§61.701 - 61.706; Subchapter I, Reimbursement to Law Enforcement Agencies for Forensic Sexual Assault Examinations, §§61.801 - 61.804; and Subchapter J, Administrative Remedies, §§61.901 - 61.904.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Rita Baranowski, Assistant Attorney General, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12198, Austin, Texas 78711-2198, (512) 936-1240, rita.baranowski@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704150  
Stacey Napier  
Deputy Attorney General  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1, Administration, Part 3, Office of the Attorney General, Chapter 62, Sexual Assault Prevention and Crisis Services. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 62, Sexual Assault Prevention and Crisis Services, §62.25, Definitions; §62.26, Requirements for Currency of Practice Certification; §62.27, Clinical Hours; §62.28, Applications for Currency of Practice; §62.29, Continuing Education/Skill Maintenance; §62.30, Appeals; §62.31, Revocation of Certification; §62.32, Appeals Process for Revocation of Certification; §62.60, Financial Reporting and Reimbursement; §62.61, Performance Reporting; §62.62, Inventory Reporting; §62.63, Contract

Adjustments; §62.64, Copyrights; §62.65, Procurement, Property Management, and Contract Oversight Procedures; §62.66, Maintenance of Records; §62.67, Sanctions; §62.68, Suspension of Funds and Termination of SAPCS Contracts; §62.69, Appeal of Suspension of Funds or Termination of SAPCS Contracts; §62.70, Violations of Laws; §62.71, Standards of Conduct; §62.72, Quality Assurance; §62.73, Audit Standards; §62.74, Advocate Training Certification; §62.75, Definitions for an Advocate Training Program; §62.76, Policy and Training Requirements for an Advocate Training Program; §62.77, Trainers for an Advocate Training Program; §62.78, Test Requirements for an Advocate Training Program; §62.79, Continuing Education for an Advocate Training Program; §62.80, Use of Advocates for an Advocate Training Program; §62.81, Application Process for an Advocate Training Program; §62.82, Verification; §62.83, Certification Renewal of an Advocate Training Program; §62.84, Suspension, Probation, or Decertification of an Advocate Training Program; §62.85, Appeal of Denial, Suspension, or Decertification of an Advocate Training Program; §62.86, Prehearing Conference for an Advocate Training Program; §62.100, SAPCS Definitions; §62.101, Construction of Rules; §62.102, Source of Funds; §62.103, Availability of Funds; §62.104, Purpose of Funds and Grant Funding Decisions; §62.105, SAPCS Eligible Purpose Areas; §62.106, SAPCS Eligible Applicants; §62.107, Match and Volunteer Requirements; §62.108, Funding Levels; §62.109 Grant Contract Period; §62.110, Continuation of Funding; §62.111, Additional Award Opportunities; §62.112, Applicant Registration; §62.113, Filings with the OAG; §62.114, Compliance with Other Standards; §62.115, Use of the Internet; §62.200, Application Process; §62.201, Initial Screening; Evaluation and Review Process; §62.202, Grant Decision Notification Process; §62.203, Grant Decisions; §62.300, General Budget Provisions; §62.301, Personnel; §62.302, Fringe Benefits; §62.303, Professional and Consultant Services; §62.304, Travel; §62.305, Equipment; §62.306, Supplies; §62.307, Other Direct Operating Expenses; §62.308, Indirect Costs; §62.309, Unallowable Costs; §62.400, Comprehensive Certification and Assurances Form; §62.401, Resolution; §62.500, SAPCS Grant Contract Forms; and §62.501, Grant Contact and Authorized Official.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Rita Baranowski, Assistant Attorney General, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12198, Austin, Texas 78711-2198, (512) 936-1240, rita.baranowski@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704151  
Stacey Napier  
Deputy Attorney General  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 64 Standards of Operation for Local Court-Appointed Volunteer Advocate Programs. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four

years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 64 Standards of Operation for Local Court-Appointed Volunteer Advocate Programs, §64.1 Legal Authorization; §64.3 Applicability; §64.5 Definitions; §64.7 Purpose; §64.9 Contracts With Local Programs; §64.11 Scale of State Financial Support; and §64.13 Operation of Local Program.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Rita Baranowski, Assistant Attorney General, Crime Victim Services Division, Office of the Attorney General, P.O. Box 12198, Austin, Texas 78711-2198, (512) 936-1240, rita.baranowski@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704152  
Stacey Napier  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 66, Family Trust Fund Disbursement Procedures. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 66 Family Trust Fund Disbursement Procedures, Subchapter A General Provisions and Eligibility; Subchapter B Grant Application, Scope of Grant, Approval and Funding; Subchapter C Special Conditions and Required Documents; Subchapter D Award and Grant Acceptance; Subchapter E Administering Grants, and Subchapter F Program Monitoring and Audits.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Kathy Shafer, Deputy Director, Legal Counsel Division, Office of the Attorney General, (physical address) 5500 East Oltorf, Austin, Texas 78741, or (mailing address) P.O. Box 12017, Mail Code 044, Austin, Texas 78711-2017, (512) 460-6134, kathy.shafer@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704153  
Stacey Napier  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 68 Negotiation and Mediation

of Certain Contract Disputes. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 68 Negotiation and Mediation of Certain Contract Disputes, Subchapter A General; Subchapter B Negotiation of Contract Disputes; and Subchapter C Mediation of Contract Disputes.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Jack Hohengarten, Assistant Attorney General, Financial Litigation Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-3503, jack.hohengarten@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704154  
Stacey Napier  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 69 Central Purchasing. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 69 Central Purchasing, Subchapter A Procedures for Vendor Protests of Procurements §§69.1 - 69.7; and Subchapter B Historically Underutilized Business Program §69.25.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Dave Liebich, Assistant Division Director, Budget and Purchasing Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-4509, david.liebich@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704155  
Stacey Napier  
Office of the Attorney General  
Filed: September 7, 2007



The Office of the Attorney General (OAG) files this Notice of Intention to Review Texas Administrative Code, Title 1 Administration, Part 3 Office of the Attorney General, Chapter 69 Central Purchasing. The text of the rule sections will not be published. The review is in accordance with Texas Government Code §2001.039, which requires state agencies to review and consider for readoption their administrative

rules every four years. The review shall assess whether the reasons for initially adopting the rules continue to exist.

The OAG proposes to review Chapter 69 Central Purchasing, Subchapter C Management of Vehicles, §69.35 State Vehicle Management Plan, §69.36 Restrictions on Assignment of Vehicles, and §69.45 Exemption from Vehicle Inscription Requirement.

For 30 days following the publication of this notice, the OAG will accept public comments concerning whether the reasons for adopting this chapter continue to exist.

Any questions or written comments pertaining to this notice should be directed to Rex Taylor, Division Director, Support Services Division, Office of the Attorney General, P.O. Box 12548, Austin, Texas 78711-2548, (512) 475-3388, rex.taylor@oag.state.tx.us. Any proposed changes to these rules as a result of the review will be published in the Proposed Rules section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption or repeal by the OAG.

TRD-200704156  
Stacey Napier  
Office of the Attorney General  
Filed: September 7, 2007



#### Comptroller of Public Accounts

##### **Title 34, Part 1**

The Comptroller of Public Accounts proposes to review Texas Administrative Code, Title 34, Part 1, Chapter 1, concerning Central Administration, Chapter 5, concerning Funds Management (Fiscal Affairs), and Chapter 6, concerning Investment Management. This review is being conducted in accordance with Government Code, §2001.039. The review will include, at the minimum, whether the reasons for readopting continue to exist.

The comptroller will accept comments regarding the review. The comment period will last for 30 days following the publication of this notice in the *Texas Register*.

Comments pertaining to this review of may be directed accordingly:

Chapter 1, Central Administration  
Subchapter A; Practice and Procedures  
Division 1; Practice and Procedures  
Rick Budd, Deputy General Counsel  
General Counsel Division  
P.O. Box 13528, Austin, Texas 78711-3528  
Division 2; Legal Services Bond Division  
Melissa Mora  
Cash and Securities Management  
P.O. Box 13528, Austin, Texas 78711-3528-3528  
Division 3; Support Services  
Cathy Navarro, Manager  
Support Services Administration  
P.O. Box 13528, Austin, Texas 78711-3528  
Subchapter B; Public Information  
Ruth Soucy, Deputy General Counsel

General Counsel Division  
P.O. Box 13528, Austin, Texas 78711-3528  
Subchapter C; Advisory Committees  
Don Neal, Assistant General Counsel  
General Counsel Division  
P.O. Box 13528, Austin, Texas 78711-3528  
Subchapter D; Texas Film Industry Loan Guarantee Program  
Don Hoyte, Manager  
Regional Fiscal Analysis Administration  
P.O. Box 13528, Austin, Texas 78711-3528  
Subchapter E; Historically Underutilized Business  
Subchapter F; Negotiation and Mediation of Contract Disputes  
Pam Smith, Deputy General Counsel  
General Counsel Division  
P.O. Box 13528, Austin, Texas 78711-3528  
Chapter 5, Funds Management (Fiscal Affairs)  
Subchapter A; Judiciary Department Procedures  
Leonard Higgins  
Comptroller's Judiciary Section  
P.O. Box 13528, Austin, Texas 78711-3528  
Subchapter B; Claims Processing--Electronic Funds Transfers  
Subchapter C; Claims Processing--Travel Vouchers  
Subchapter D; Claims Processing--Payroll  
Subchapter E; Claims Processing--Purchase Vouchers  
Subchapter F; Claims Processing--General Requirements  
Subchapter L; Claims Processing--Duplicate Warrants  
Subchapter N; Funds Accounting--Accounting Policy Statements  
Subchapter O; Uniform Statewide Accounting Systems  
Tom Mathey  
Fund Accounting Administration  
P.O. Box 13528, Austin, Texas 78711-3528  
Chapter 6, Investment Management  
Lauren McKinney, Assistant General Counsel  
General Counsel Division  
P.O. Box 13528, Austin, Texas 78711-3528  
TRD-200704116  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: September 6, 2007



#### State Pension Review Board

##### **Title 40, Part 17**

The State Pension Review Board (PRB), beginning October 2007, will review and consider for re-adoption, of Chapter 605 concerning General Provisions, in accordance with the Government Code, §2001.039. The rules are located in Title 40 Part 17, of the Texas Administrative Code, and contain the following sections for review; §605.1 Adoption of Standard Forms, and §605.3 Submission of Forms.

The board will consider, among other things, whether the reasons for re-adoption of these rules continue to exist. The comment period will last for 30 days beginning with the publication of this notice of intention to review. Comments or questions regarding this notice of intention to review may be submitted in writing within 30 days following the publication of this notice in the *Texas Register*, to Ms. Virginia Smith, Executive Director, P.O. Box 13498, Austin, Texas 78711-3498 or by e-mail to prb@prb.state.tx.us.

TRD-200704125  
Lynda Baker  
Executive Assistant  
State Pension Review Board  
Filed: September 7, 2007

◆ ◆ ◆  
**Adopted Rule Review**

State Securities Board  
**Title 7, Part 7**

Pursuant to the notice of proposed rule review published in the *Texas Register* (32 TexReg 3005), June 1, 2007, the State Securities Board (Board) has reviewed and considered for readoption, revision, or repeal, all sections of the following chapters of Title 7, Part 7, of the Texas Administrative Code, in accordance with Texas Government Code, §2001.039: Chapter 105, Rules of Practice in Contested Cases, and Chapter 106, Guidelines for the Assessment of Administrative Fines.

The Board considered, among other things, whether the reasons for adoption of these rules continue to exist. After its review, the Board finds that the reasons for adopting these rules continue to exist and readopts these chapters, without changes, pursuant to the requirements of the Government Code.

No comments were received regarding the readoption of Chapters 105 and 106.

This concludes the review of 7 TAC Chapters 105 and 106.

TRD-200704191  
Denise Voigt Crawford  
Securities Commissioner  
State Securities Board  
Filed: September 11, 2007

# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

**Figure: 10 TAC §80.23(a)(4)**

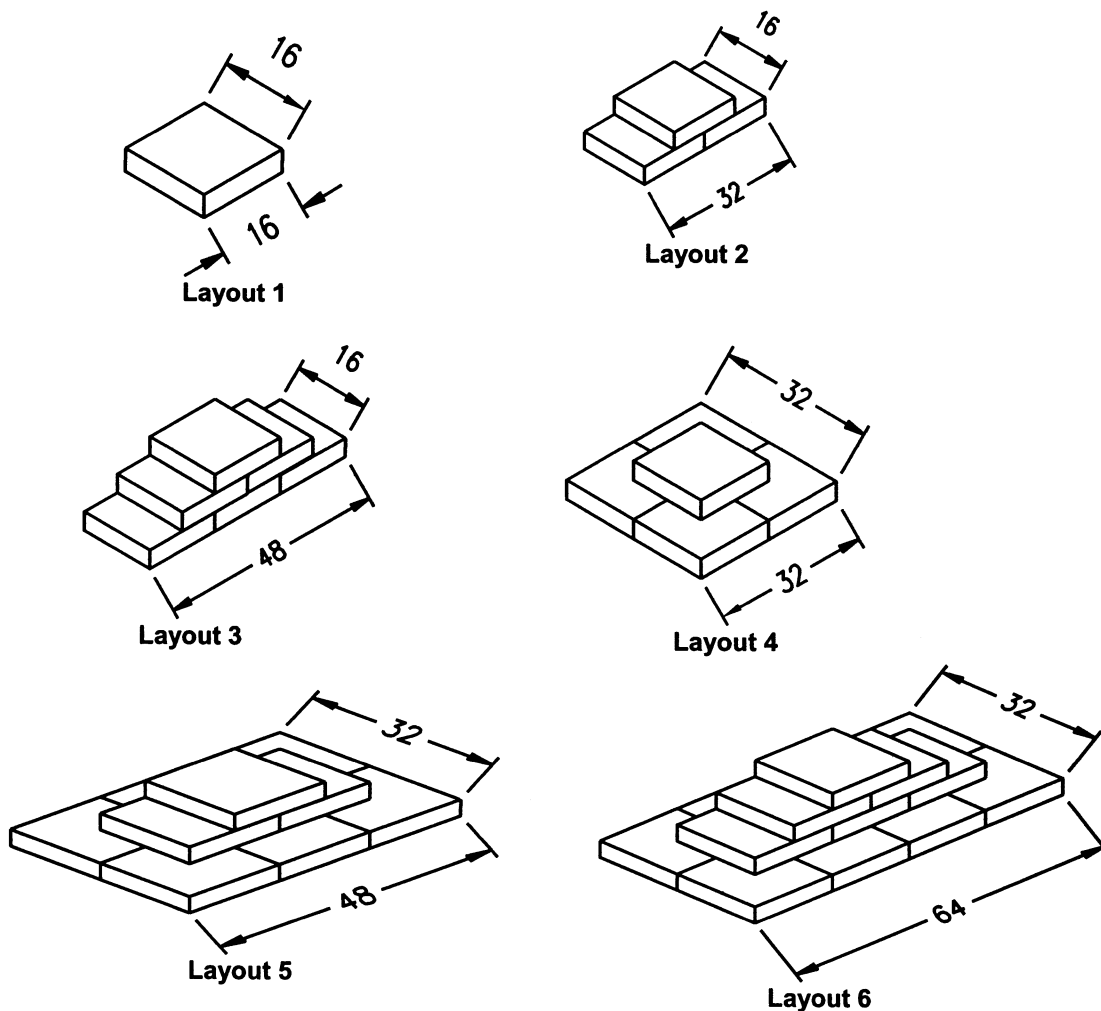
## **FOOTER CAPACITIES (LBS)**

-----Soil Bearing Capacity-----							
Footer size	1000psf	1500psf	2000psf	2500psf	3000psf	3500psf	4000psf
16x16x4	1700	2700	3500	4400	5300	6100	7000
20x20x4	2700	4100	5500	6900	8300	9400	11000
16x32x4	3500	5200	6800	8600	10400	12000	14000
24x24x4	4000	6000	8000	10000	12000	14000	16000
<b>Notes:</b> 1) 8x16x4 footers may be used for perimeter and/or exterior door supports. Capacity is half that of the tabulated values for a 16x16x4 footer. For double 8x16x4 footers use the 16x16x4 row. 2) Footers of material other than concrete may be used if registered with the Department and the listed capacity and area is equal to or greater than the footer it replaces. Concrete footers of sizes not listed may be used as long as their size is equal to or greater than the size listed. 3) Footers with loads greater than 8,000 lbs. require a double stacked pier. 4) All poured concrete is minimum 2500 psi at 28 days. 5) Actual footer dimensions may be 3/8 inch less than the nominal dimensions for solid concrete footers conforming to the specifications in ASTM C90-99a, Standard Specification for Load bearing Concrete Masonry Units.							

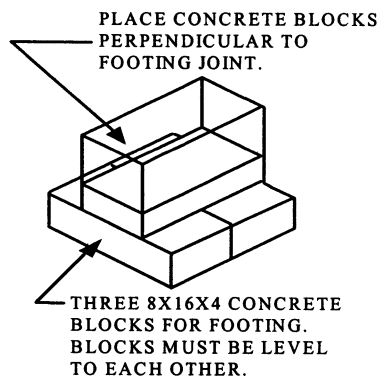


**Figure: 10 TAC §80.23(c)**

Notes: Typical pier pad: 16 in. x 16 in. x 4 in. thick precast concrete.



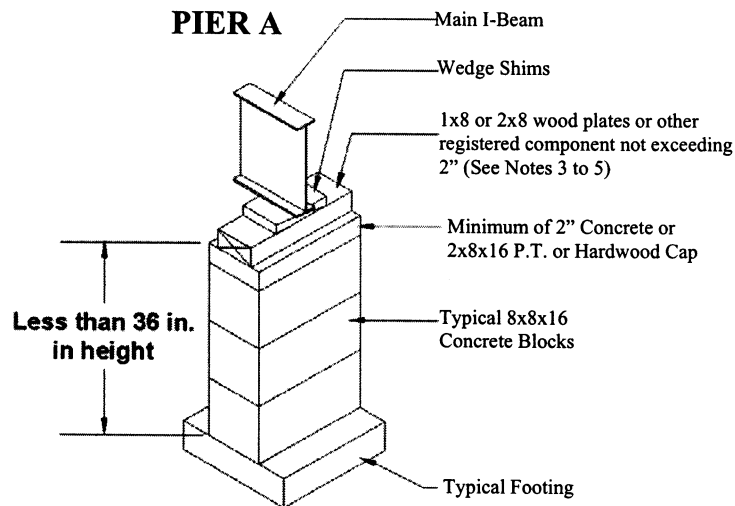
**DOUBLE 8x16x4**



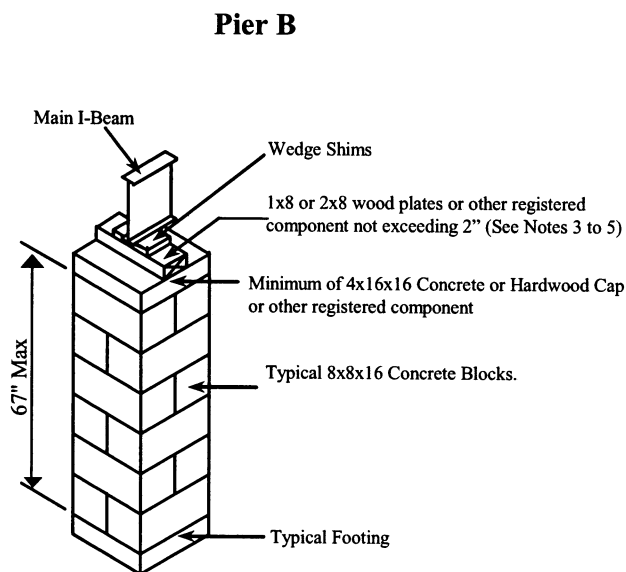
**Layout 7**

**Figure: 10 TAC §80.23(f)**

**PIER DESIGN (SINGLE & MULTI-SECTION STACK)**

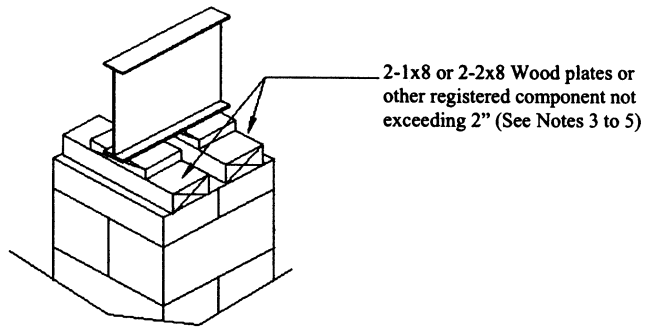


Pier A: Single stack of solid or open cell, 8x8x16 concrete blocks. Maximum height is 36 inches as measured from the top of the footer to the top of the last concrete block. Concrete blocks are installed with their lengths perpendicular to the main I-Beam. Open cells must be vertical and in alignment.



Pier B: Interlocked double stack of solid or open cell 8x8x16 concrete blocks. The maximum height is 67 inches as measured from the top of the footer to the top of the last concrete block. Piers of greater heights are allowed if they are within limits established in adopted federal standards. The pier is capped with a minimum 16x16x4 concrete cap. Open cells must be vertical and in alignment. Each course of open cell blocks must be perpendicular to the previous course.

### Pier B-1



#### Note:

- 1) Open cell and solid concrete blocks shall meet ASTM-C90-99a, Standard Specification for load bearing Concrete Masonry Units.
- 2) Support system components are to be undamaged and installed in a manner to accomplish the purpose intended.
- 3) Either wood caps or shims must be used between I-Beam and concrete.
- 4) Preservation treated (PT) wood components shall conform to the applicable standards issued by the American Wood Preserver's Association and referenced by the latest edition of the International Residential Code.
- 5) When concrete caps are used, wood plates or other registered components are required. When wood caps are used, wood plates shall not be used.

Figure: 10 TAC §80.23(f)(2)

### PIER LOADS (LBS) AT TABULATED SPACINGS (WITHOUT PERIMETER SUPPORTS)

maximum pier spacing					
Unit Width(ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1725	2150	2600	3000	3400
14 wide	2000	2500	3000	3500	4000
16 Wide	2350	2900	3500	4100	4700
<p><b>Note:</b> 18 ft. wides require perimeter support.</p> <p>Example: Determine maximum pier spacing for a 16 ft. wide x 76 ft. long single section with a soil bearing capacity of 1500 psf. Footer size to be used is a single 16x16x4 precast concrete footer.</p> <p>Look up the maximum load for a single 16x16x4 pad set on 1500 psf soil.</p> <p>Step 1: Answer = 2700 psf</p> <p>Step 2: In the table in the column for 16 ft. wide, find the on-center spacing (o.c.) load equal to or less than the footer capacity of 2700 lbs.</p> <p>The 4ft column shows minimum capacity of 2350 lbs.</p> <p>Therefore, for a 16 ft. wide and a soil bearing capacity of 1500 psf using 16x16x4 footers the maximum pier spacing is 4 ft. o.c.</p> <p>Answer:</p>					

Figure: 10 TAC §80.23(f)(3)

**PIER LOADS (LBS) AT TABULATED SPACINGS**  
**(WITH PERIMETER SUPPORTS)**

----- maximum I-Beam pier spacing -----					
Unit width (ft)	4 ft o.c.	6 ft o.c.	8 ft o.c.	10 ft o.c.	12 ft o.c.
12 Wide	750	1150	1500	1900	2300
14 Wide	1050	1600	2100	2600	3100
16 Wide	1200	1800	2400	3000	3600
18 Wide	1450	2150	2850	3600	4300

Note: Maximum I-Beam pier spacing is 8 ft. o.c. for 8" I-Beam, 10 ft. o.c. for 10" I-Beam and 12 ft. o.c. for 12" I-Beam or the resultant maximum spacing based on soil bearing and footer size per the table in §80.23(a)(4), whichever is less.

----- maximum perimeter pier spacing -----					
Unit width (ft)	4 ft o.c.	5 ft o.c.	6 ft o.c.	7 ft o.c.	8 ft o.c.
12 Wide	1000	1200	1500	1700	1900
14 Wide	1100	1400	1650	1900	2200
16 Wide	1300	1600	1900	2250	2500
18 Wide	1600	2000	2300	2700	3000

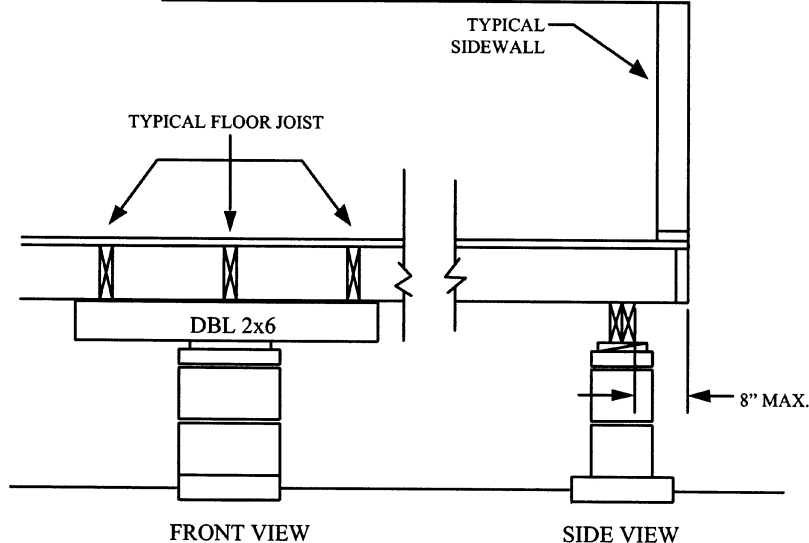
Example: Determine maximum I-Beam pier spacing for a 16 ft. wide with 12" I-Beam, perimeter support and 1500 psf soil bearing capacity.

Step 1: From the table in §80.23(a)(4), the maximum load for a 16x16x4 at 1500 psf soil is 2700 lbs.

Step 2: From the I-beam pier spacing table, the I-Beam pier load @ 10 ft. o.c. is 3000 lbs ==> no good, the I-Beam pier load @ 8 ft. o.c. is 2400 lbs ==> ok  
I-Beam pier spacing is at 8 ft. o.c.

Step 3: The perimeter pier load @ 8 ft. o.c. is 2500 lbs =====> ok  
Perimeter pier spacing is at 8 ft. o.c.

**PERIMETER PIER FRONT & SIDE VIEW**

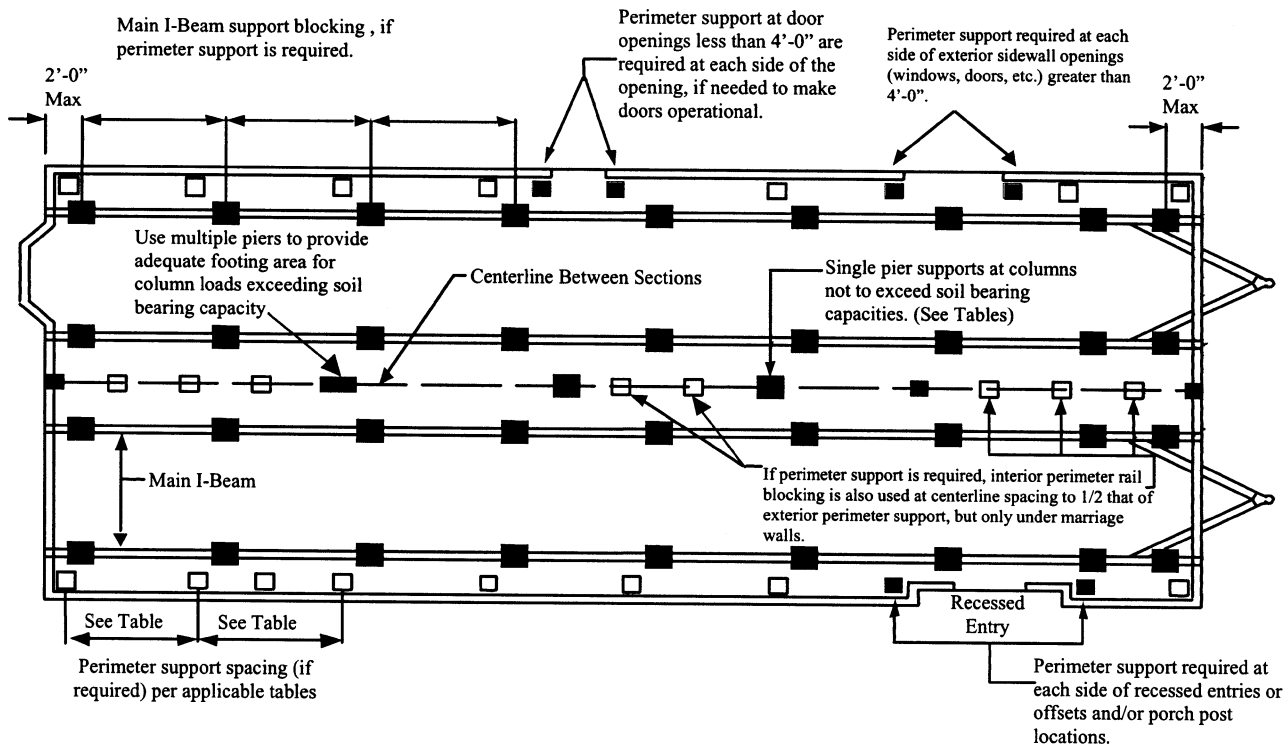


**Notes:**

- 1) Perimeter pier may be inset from edge of floor up to 8". The 2x6 brace may be omitted if the front face of a perimeter pier is flush with the perimeter joist and the perimeter pier supports the intersection of an interior joist and perimeter joist.
- 2) Dbl 2x6 are min. #3 Yellow Pine or pressure treated Spruce-Pine, nailed together with min. 16d galvanized nails 2-rows at maximum 8" o.c.
- 3) 2x6 brace must span at least two (2) but not more than three (3) floor joists.

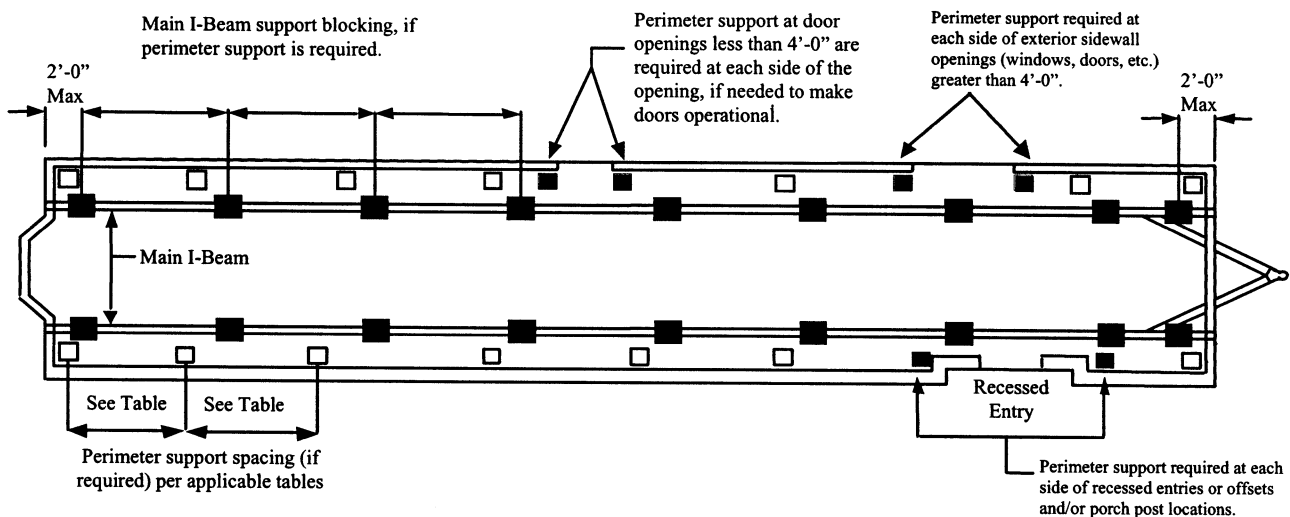
**Figure: 10 TAC §80.23(g)**

**TYPICAL MULTI-SECTION PIER LAYOUT**



**Figure: 10 TAC §80.23(h)**

**TYPICAL SINGLE SECTION PIER LAYOUT**



**Figure: 10 TAC §80.23(i)(1)**

### **DETERMINING COLUMN LOAD**

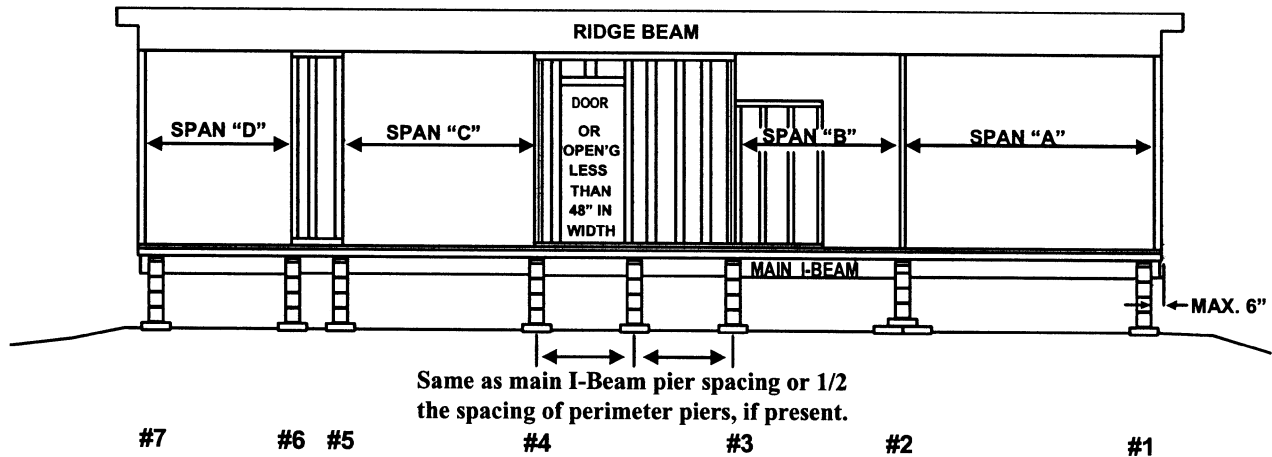
To determine the column load for Column #1 at the endwall look up Span "A" in the table in §80.23(i)(4). To determine the column load for Column #2, look up the combined distance of both Span "A" and Span "B".

To determine the column load for Column #3 look up Span "B" in the table.

(NOTE: Mating line walls not supporting the beam must be included in the span distance.)

To determine the loads for Columns #4 and #5 look up Span "C". For Columns #6 and #7 look up load for span "D".

### **MARRIAGE LINE ELEVATION**



**Figure: 10 TAC §80.23(i)(4)**

**Mating Line Column Loads**

-----Unit width in feet (nominal)-----			
Span in feet	12 Wide	14 Wide	16 Wide
4	720	840	960
6	1080	1260	1440
8	1440	1680	1920
10	1800	2100	2400
12	2160	2520	2880
14	2520	2940	3360
16	2880	3360	3840
18	3240	3780	4320
20	3600	4200	4800
22	3960	4620	5280
24	4320	5040	5760
26	4680	5460	6240
28	5040	5880	6720
30	5400	6300	7200
32	5760	6720	7680
34	6120	7140	8160
36	6480	7560	8640

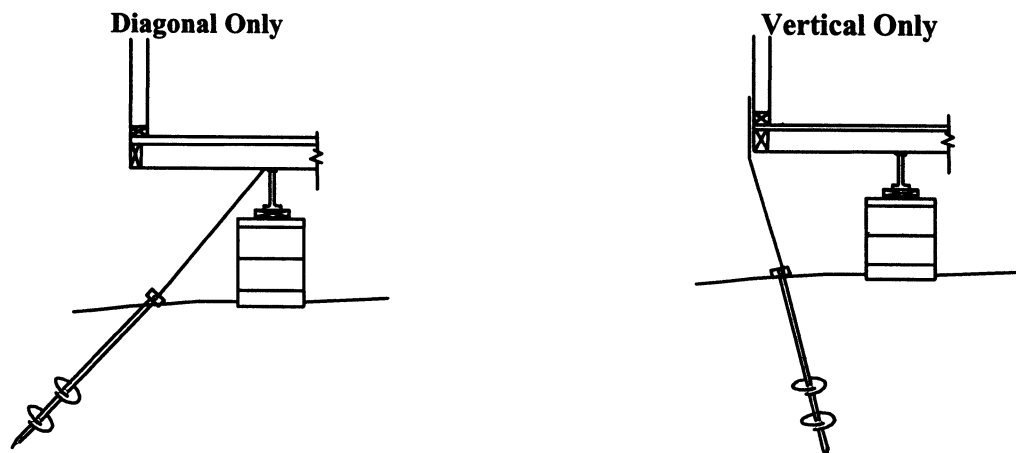
Note: If actual span is not shown use next higher tabulated span.

**Figure: 10 TAC §80.24(c)(1)**

**ANCHOR INSTALLATION**

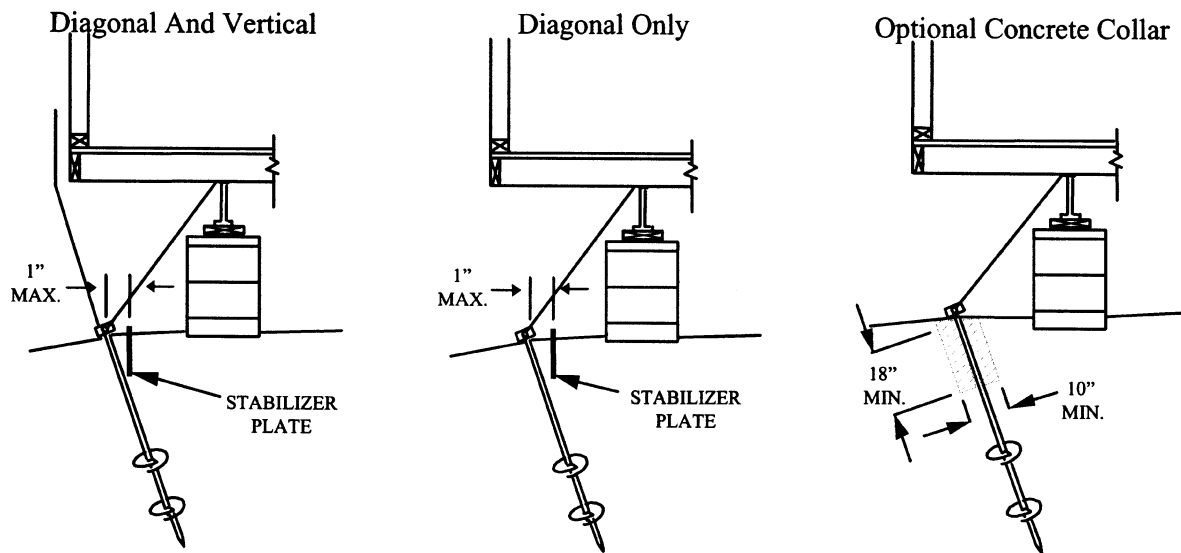
**Notes:**

- 1) Anchor head must be not more than 1 inch from the ground at insertion point.
- 2) Anchor head may be inset a maximum of 6 inches from the vertical outer edge of the floor framing to allow for skirting installation.



**Figure: 10 TAC §80.24(c)(2)**

**PLACEMENT OF STABILIZING DEVICES**



**Notes:**

- 1) Stabilizer plate may be replaced with a concrete collar that is at least 18 inches deep and 10 inches in diameter or other approved devices.
- 2) Diagonal tie must depart from the top of the I-Beam as shown.
- 3) The top of the stabilizer plate must be within 1 inch of the anchor shaft.
- 4) Stabilizer plates and other approved devices must be installed in accordance with the product manufacturer's instructions.

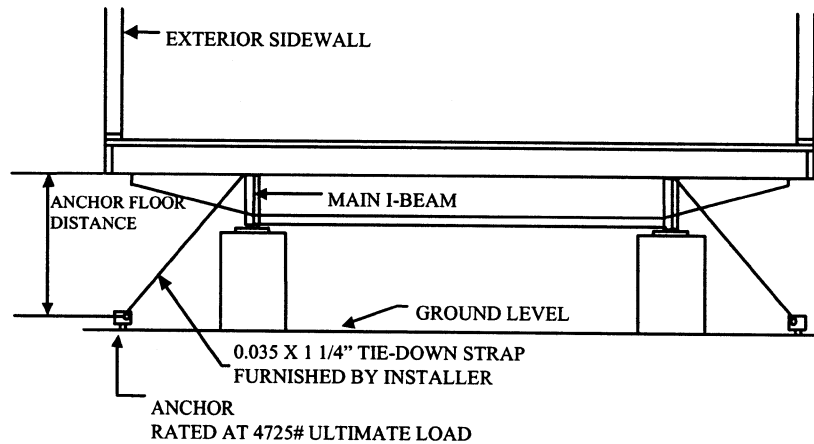


**Figure: 10 TAC §80.24(d)(1)**

**WIND ZONE I – SINGLE/MULTI-SECTION INSTALLATION**

*(Refer to other figures for depictions of proper anchor and stabilizer device installation.)*

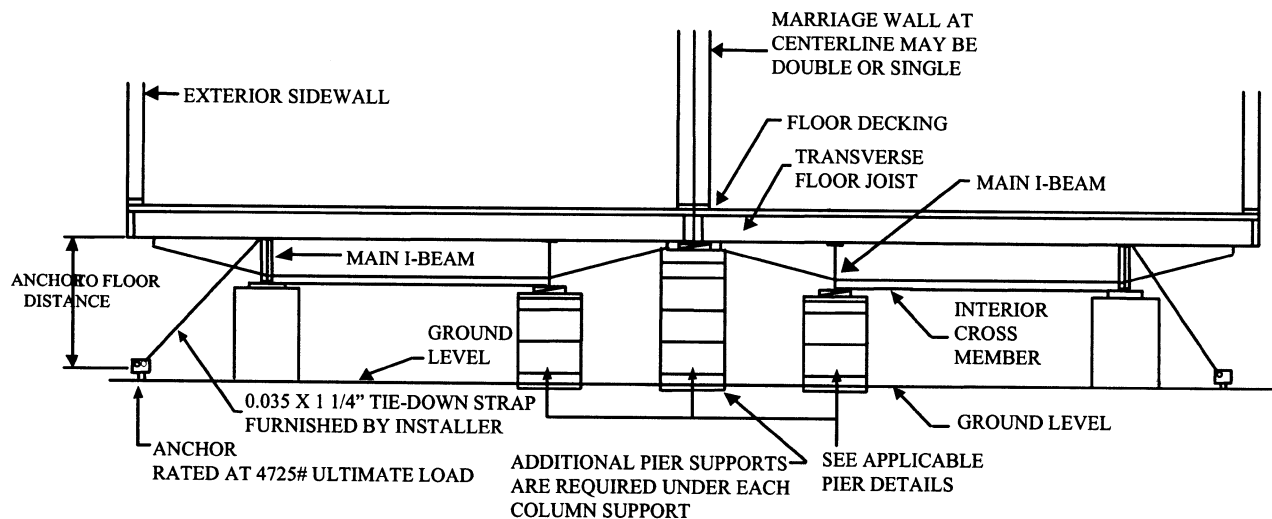
**Figure 1: Single Section**



**Notes:**

- 1) Single section units require diagonal ties to be directly opposite each other.
- 2) All existing vertical ties must be connected to a ground anchor.
- 3) Diagonal tie spacing per the table. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Diagonal tie must depart from the top of the I-Beam as shown.

**Figure 2: Multi-Section**



**Notes:**

- 1) Multi-section units require diagonal ties on the outer main I-Beams only.
- 2) Diagonal ties need not be directly opposite each other.
- 3) Diagonal tie spacing per the table. Vertical distance in this table refers to the distance of the anchor head to the underside of the floor joists as shown above.
- 4) Existing vertical ties must be connected to a ground anchor.
- 5) Diagonal tie must depart from the top of the I-Beam as shown.

**Figure: 10 TAC §80.24(d)(2)**

**MAXIMUM SPACING FOR DIAGONAL TIES**

<b>Minimum Nominal Widths Single/Double Section</b>				
<b>Max. Vertical Distance</b>	<b>12/24 wide</b>	<b>14/28 wide</b>	<b>16/32 wide</b>	<b>18/36 wide</b>
20" to 24"	11 ft	14 ft	15 ft	16 ft
25" to 29"	9 ft	12 ft	14 ft	15 ft
30" to 40"	8 ft	10 ft	12 ft	14 ft
41" to 48"	7 ft	9 ft	11 ft	13 ft
49" to 60" (see note 3)	6 ft	8 ft	10 ft	12 ft
61" to 67" (see notes 3 & 10)	5 ft	6 ft	8 ft	10 ft
Minimum number of longitudinal ties, each end of each section.	1 at min. 58° angle from vertical	2 at min. 32° angle from vertical	2 at min. 38° angle from vertical	2 at min. 46° angle from vertical

*Notes:*

- 1) This chart applies to single and multi section homes.
- 2) Anchoring components are rated at 4725 lbs. ultimate load. Anchoring components and equipment shall be installed in accordance with the anchoring component and equipment manufacturer's installation instructions.
- 3) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. When vertical distance exceeds 48", connect diagonal tie to opposite beam.
- 4) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam.
- 5) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other.
- 6) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, if the anchor manufacturer's installation instructions allow for the combined loading.
- 7) The vertical distance is measured from the anchor head to the underside of the floor joists.
- 8) No two anchors shall be within 4 ft of each other.
- 9) Other stabilizing systems registered with the Department may replace longitudinal and/or lateral ties as long as the system manufacturer's installation instructions are followed.
- 10) Piers of greater heights are allowed if they are within limits established in adopted federal standards.

**Figure: 10 TAC §80.24(d)(3)**

**MINIMUM NUMBER OF DIAGONAL TIES  
REQUIRED PER SIDE, PER UNIT LENGTH**

	----- o.c. spacing (ft) -----												
<b>unit length (ft)</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>
<b>40</b>	10	8	7	6	6	5	5	4	4	4	4	3	3
<b>42</b>	11	9	7	6	6	5	5	5	4	4	4	4	3
<b>44</b>	11	9	8	7	6	5	5	5	4	4	4	4	4
<b>46</b>	12	9	8	7	6	5	5	5	5	4	4	4	4
<b>48</b>	12	10	8	7	7	6	5	5	5	4	4	4	4
<b>50</b>	13	10	9	8	7	6	6	5	5	5	4	4	4
<b>52</b>	13	11	9	8	7	6	6	5	5	5	4	4	4
<b>54</b>	14	11	9	8	7	7	6	6	5	5	5	4	4
<b>56</b>	14	11	10	8	8	7	6	6	5	5	5	4	4
<b>58</b>	15	12	10	9	8	7	6	6	6	5	5	5	4
<b>60</b>	15	12	10	9	8	7	7	6	6	5	5	5	5
<b>62</b>	16	13	11	9	8	7	7	6	6	5	5	5	5
<b>64</b>	16	13	11	10	9	8	7	6	6	6	5	5	5
<b>66</b>	17	13	11	10	9	8	7	7	6	6	5	5	5
<b>68</b>	17	14	12	10	9	8	7	7	6	6	6	5	5
<b>70</b>	18	14	12	10	9	8	8	7	7	6	6	5	5
<b>72</b>	18	15	12	11	10	9	8	7	7	6	6	6	5
<b>74</b>	19	15	13	11	10	9	8	7	7	6	6	6	5
<b>76</b>	19	15	13	11	10	9	8	8	7	7	6	6	6
Note: If unit length is not listed use next higher tabulated length.													

**Figure: 10 TAC §80.24(e)(1)**

**MAXIMUM SPACING FOR DIAGONAL TIES (WIND ZONE II)**  
**PER SIDE OF THE ASSEMBLED UNIT**

<b>Minimum Nominal Widths Single/Double Section</b>				
<b>Max. Vertical Distance</b>	<b>12/24 wide</b>	<b>14/28 wide</b>	<b>16/32 wide</b>	<b>18/36 wide</b>
20" to 24"	7 ft	8 ft	8 ft	8 ft
25" to 29"	6 ft	7 ft	8 ft	8 ft
30" to 40"	5 ft	6 ft	7 ft	8 ft
41" to 48"	4 ft	5 ft	6 ft	7 ft
49" to 60" (see note 3)	4 ft	6 ft	6 ft	6 ft
61" to 67" (see notes 3 & 10)	4 ft	4 ft	4 ft	4ft
Minimum number of longitudinal ties, each end of each section.	2 at min. 58° angle from vertical	2 at min. 32° angle from vertical	3 at min. 38° angle from vertical	3 at min. 46° angle from vertical
<b>Notes:</b> <ol style="list-style-type: none"> <li>1) This chart applies to single and multi section homes.</li> <li>2) Anchor components are rated at 4725 lbs. ultimate load.</li> <li>3) Single section units shall have diagonal ties directly opposite each other along the two main I-beams. Multi section units need diagonal ties on the outer-most main I-beam only. When vertical distance exceeds 48", connect diagonal tie to opposite beam.</li> <li>4) Ties installed at each end of the home shall be within 24 inches of each end of the applicable I-beam.</li> <li>5) The distance between any two ties may be exceeded to avoid an obstruction, as long as the total number of ties remains the same, and no two anchors shall be within 4 ft of each other.</li> <li>6) Any vertical ties present on homes must be attached to a ground anchor. Both vertical and diagonal ties may be connected to a single double-headed anchor, if the anchor manufacturer's installation instructions allow for the combined loading.</li> <li>7) The vertical distance is measured from the anchor head to the underside of the floor joists.</li> <li>8) No two anchors shall be within 4 ft of each other.</li> <li>9) Other stabilizing systems registered with the Department may replace longitudinal and/or lateral ties as long as the system manufacturer's installation instructions are followed.</li> <li>10) Piers of greater heights are allowed if they are within limits established in adopted federal standards.</li> </ol>				

**Figure: 10 TAC §80.24(f)(4)**

**MAXIMUM CENTERLINE WALL OPENING FOR COLUMN UPLIFT BRACKETS**

----- Maximum opening based on floor widths -----

	<b>12 Wide (140" max)</b>	<b>14 Wide (164" max.)</b>	<b>16 Wide (186" max.)</b>	<b>18 Wide (210" max.)</b>
One Single Bracket (2-lags) either side of column.	17'-6"	15'-0"	13'-3"	11'-9"
Two Single Brackets (2-lags each), one each side of column.	35'-0"	30'-0"	26'-6"	23'-6"
One Double Bracket (4-lags) either side of column. Spans are on both sections, opposite each other.	31'-9"	27'-2"	23'-11"	21'-2"
*Two Double Brackets (4-lags) either side of column. Spans are on both sections, opposite each other.	40'-0"	40'-0"	40'-0"	40'-0"
<i>* For openings larger than 40'-0", consult a local licensed professional engineer or architect.</i>				

**Figure: 10 TAC §80.24(f)(5)(D)**

### ANCHOR SPAN

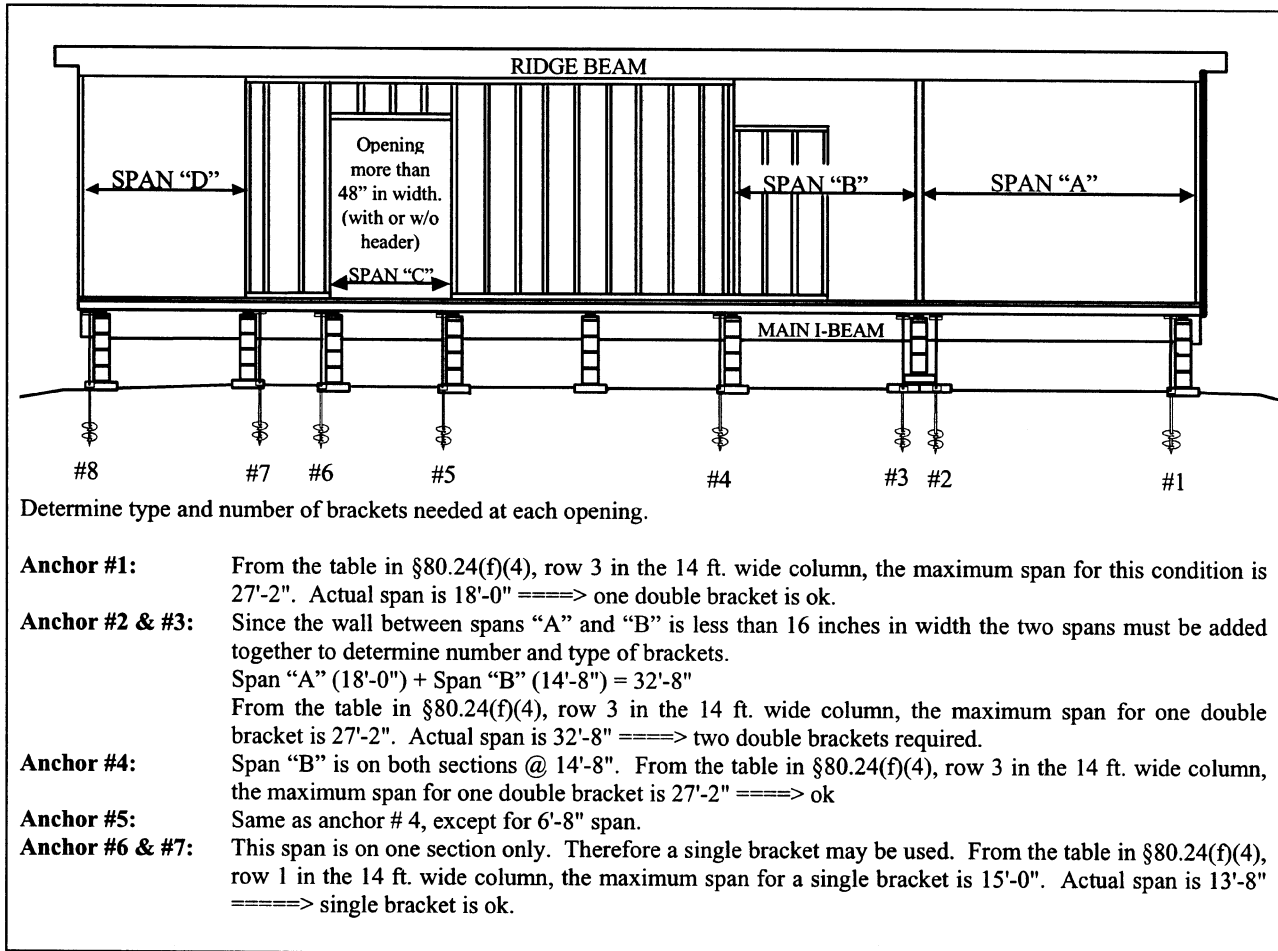
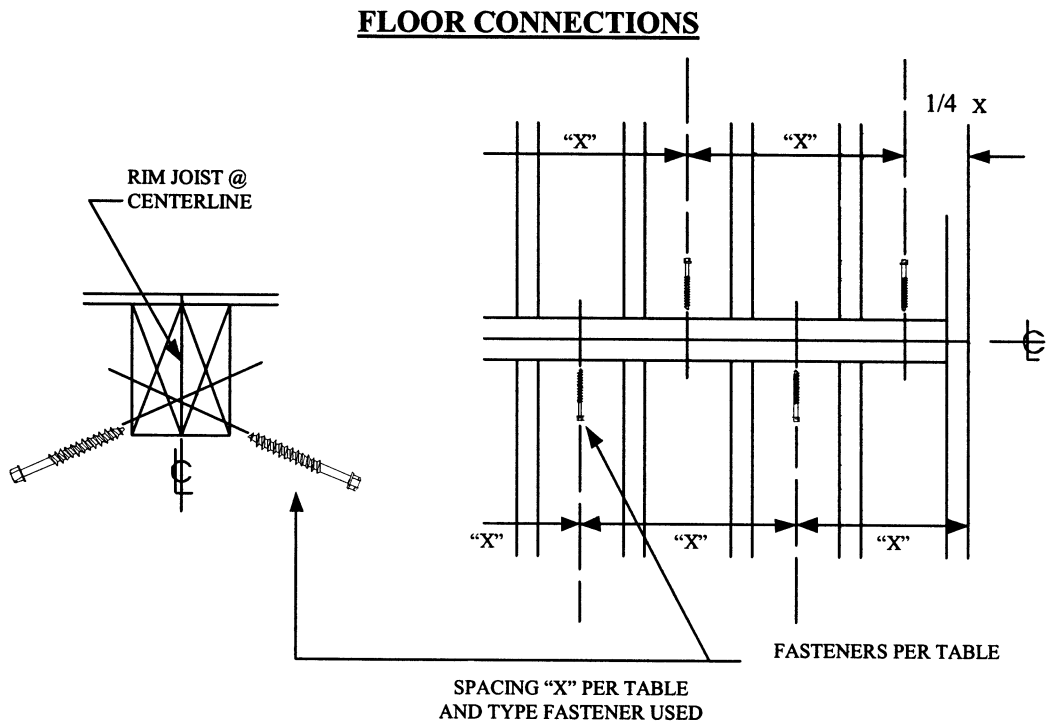
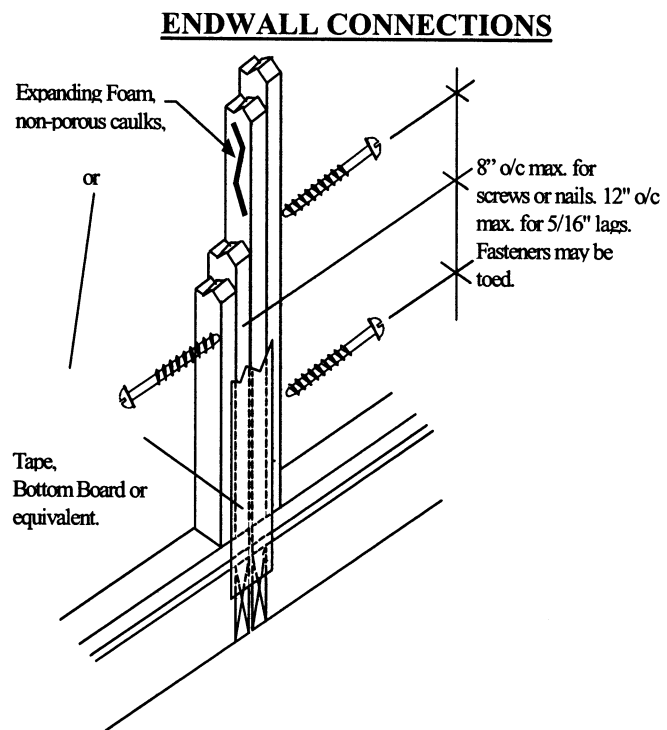


Figure: 10 TAC §80.25(b)(4)

	min 5/16 lag screw	# 10 wood screw
Wind Zone I	max. 36"	max. 24"
Wind Zone II	max. 24"	max. 12"

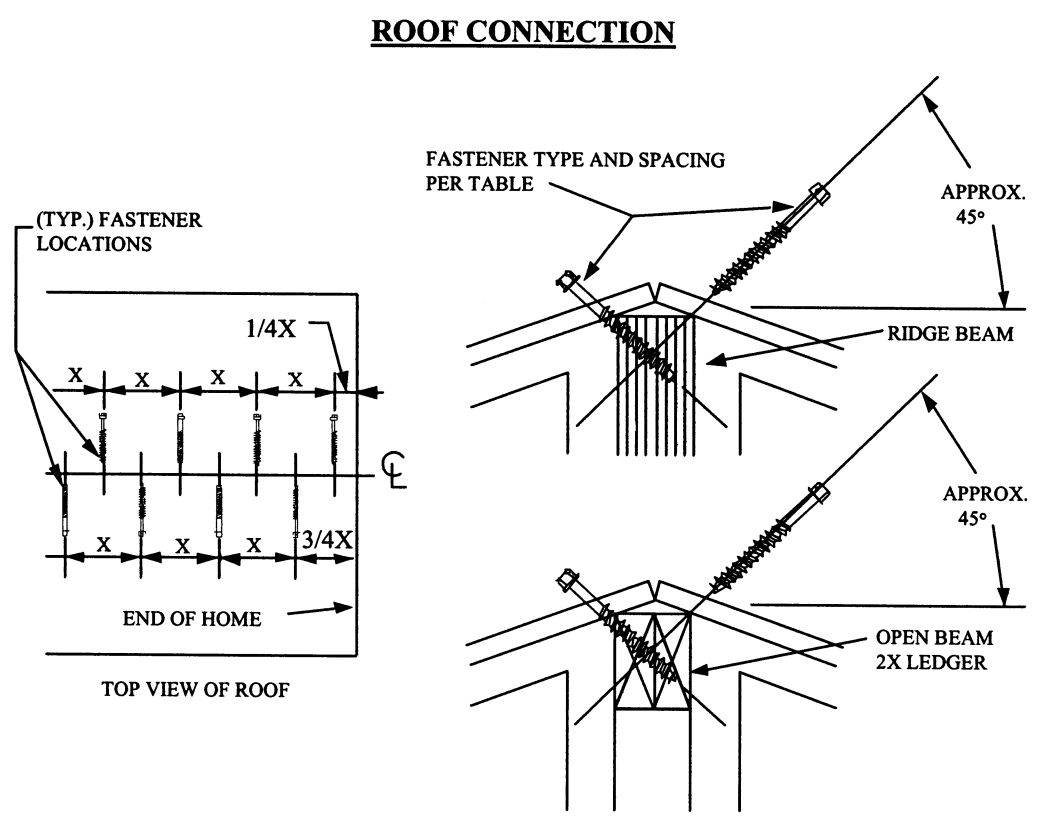


**Figure: 10 TAC §80.25(c)(2)**

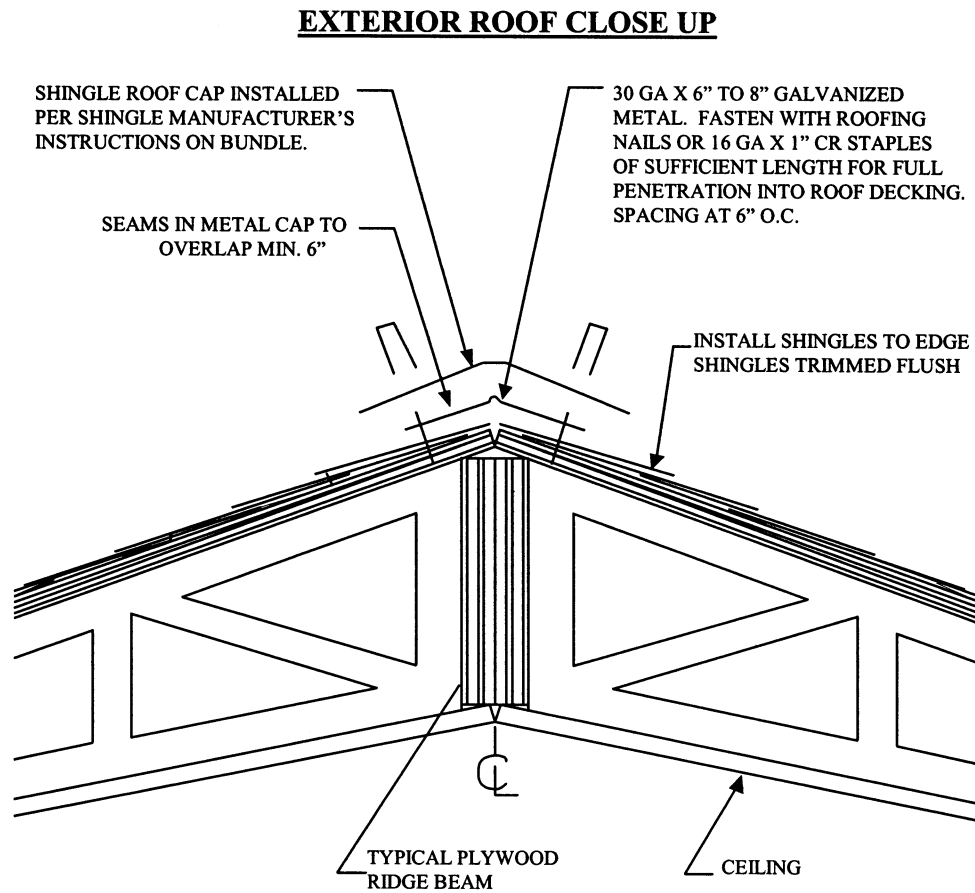




**Figure: 10 TAC §80.25(d)(2)**

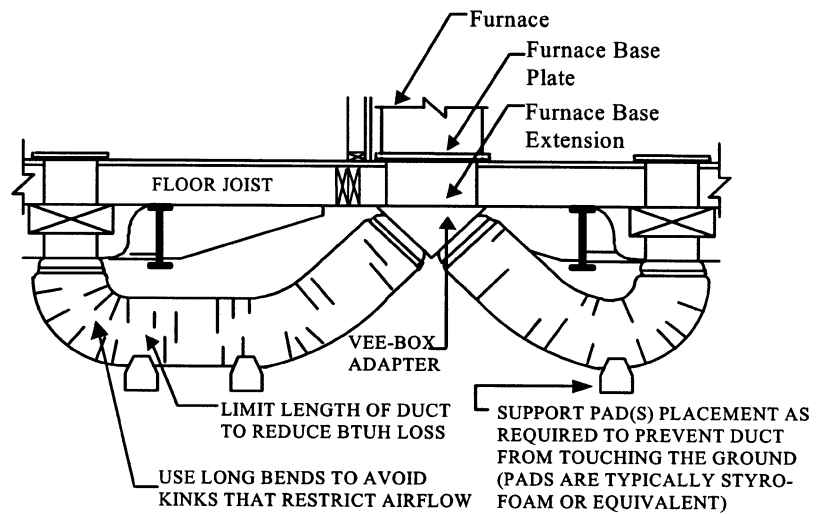
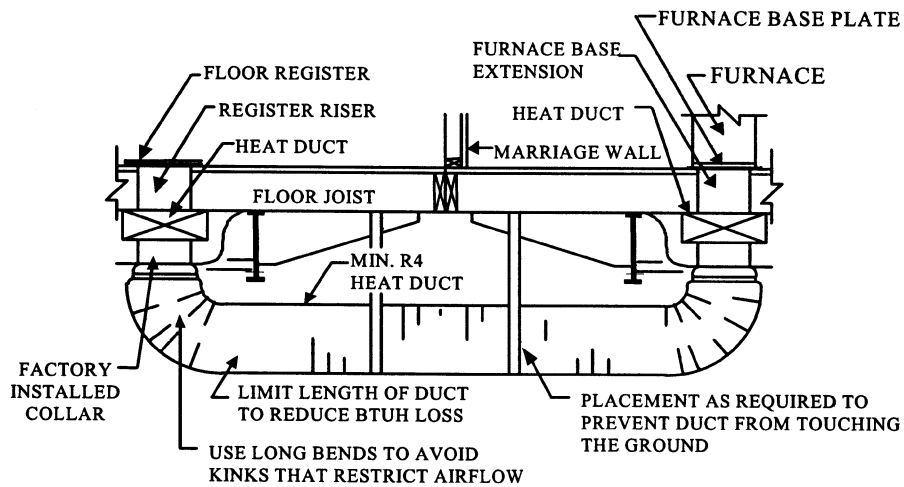


**Figure: 10 TAC §80.25(e)(6)**



**Figure: 10 TAC §80.25(g)(4)**

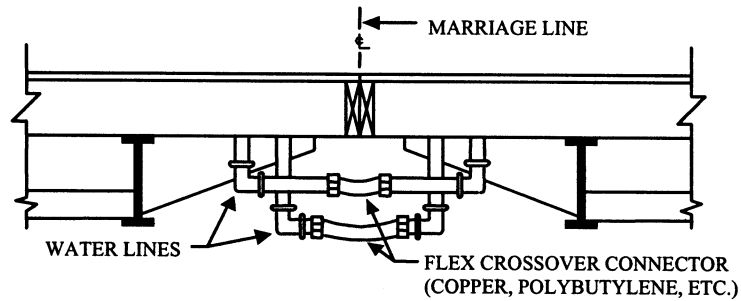
**HVAC (HEAT/COOLING) DUCT CROSSOVER**



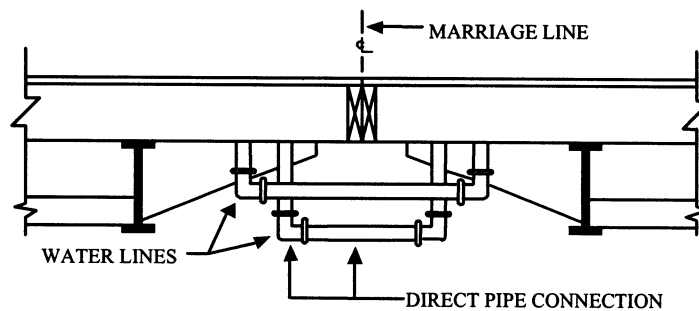
**Figure: 10 TAC §80.25(h)(3)**

**MULTI-SECTION WATER CROSSOVER CONNECTIONS**

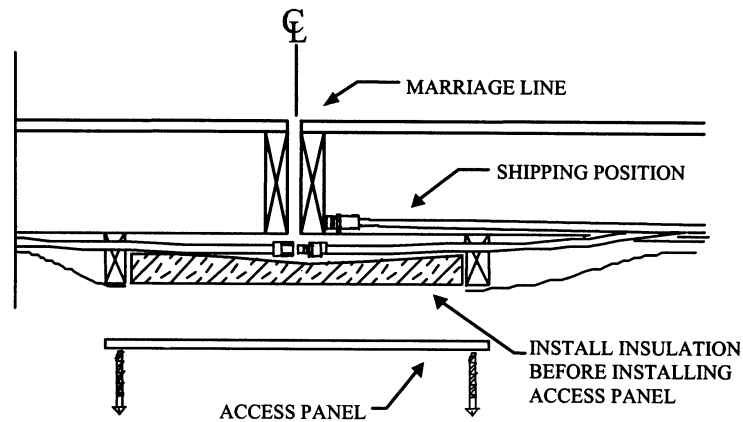
**METHOD A**



**METHOD B**

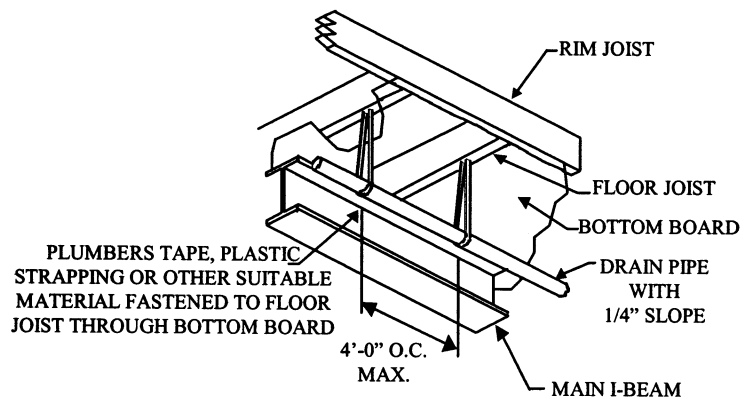
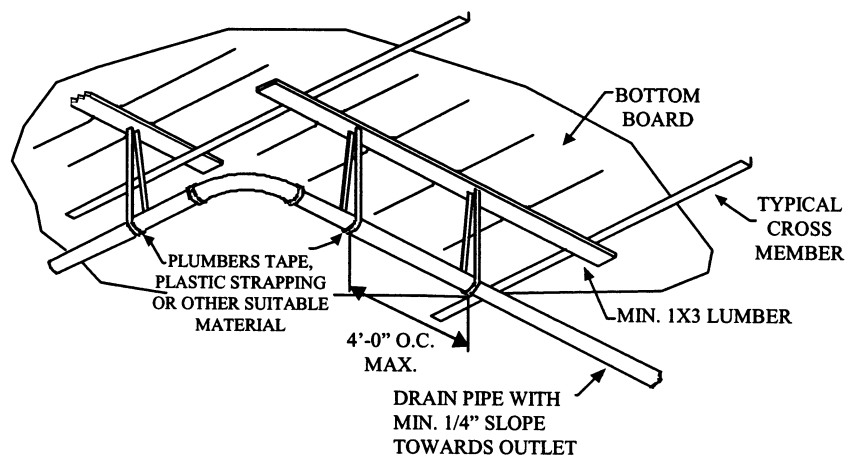
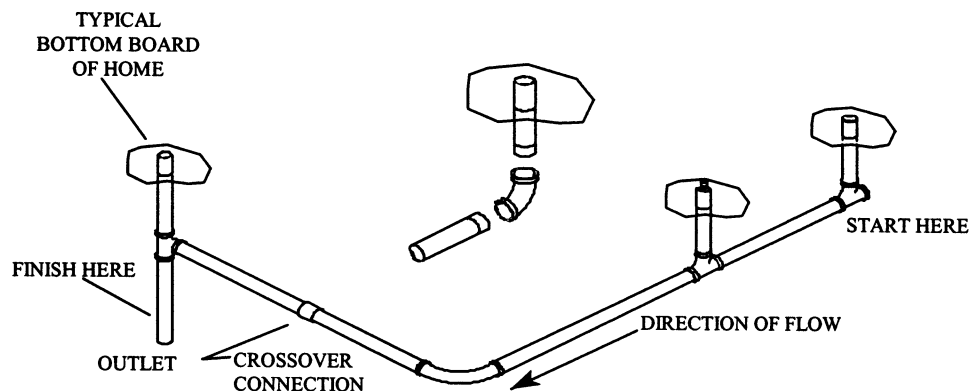


**METHOD C**

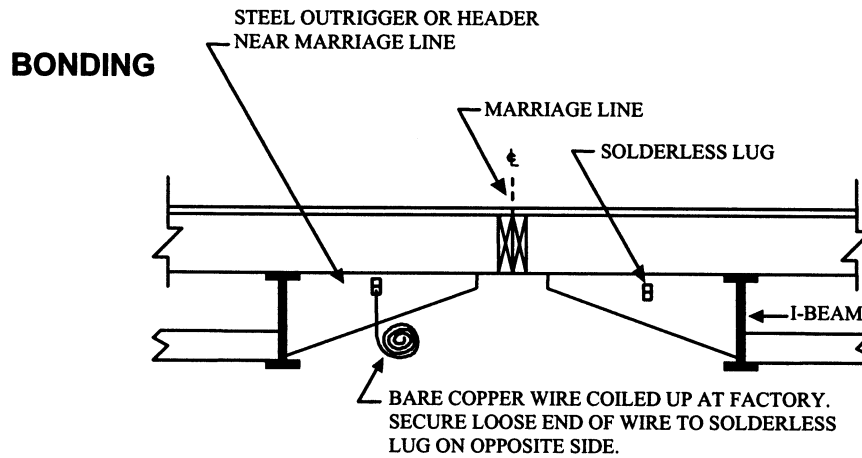


**Figure: 10 TAC §80.25(i)(1)**

# **DRAIN, WASTE AND VENT FLOOR PIPING SYSTEM**



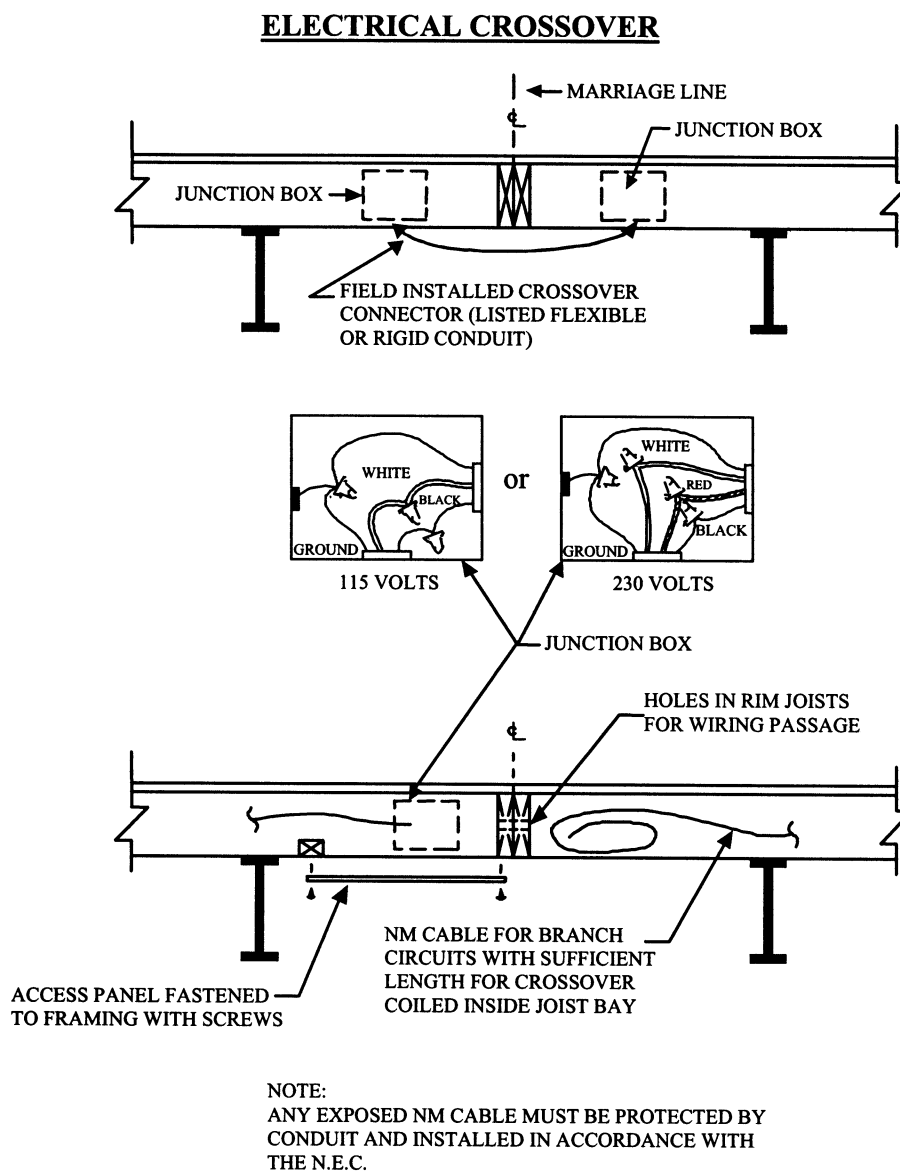
**Figure: 10 TAC §80.25(j)(2)**



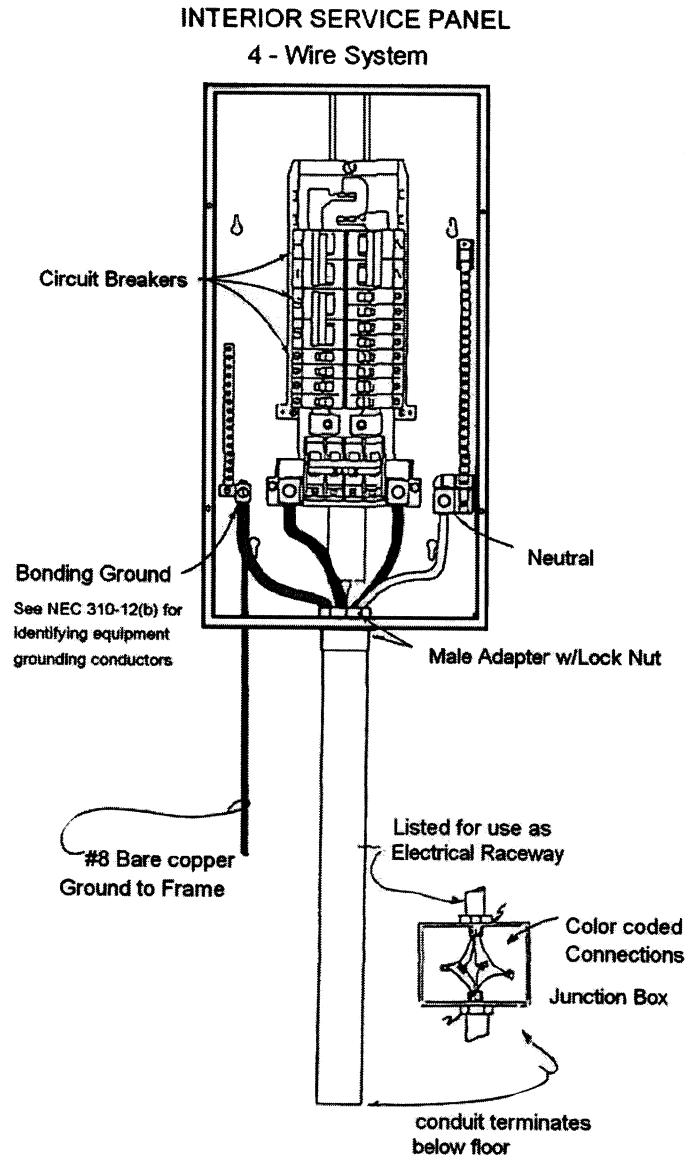
**NOTE:**

A 4" BONDING STRAP MAY BE USED INSTEAD OF COPPER  
WIRE BY ATTACHING THE STRAP TO BOTH UNITS WITH  
2-#8X3/4" SELF-TAPPING METAL SCREWS ON EACH SIDE.

**Figure: 10 TAC §80.25(j)(3)**



**Figure: 10 TAC §80.25(j)(6)**



**MAIN PANEL BOX FEEDER CONDUCTOR SIZES**

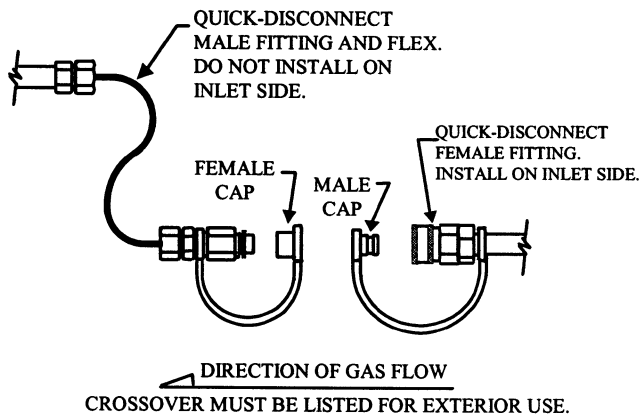
Main Breaker size (amps)	Raceway diameter	Red/Black (power)	White (neutral)	Green (grounding)
50	1	#6	#6	#8
100	1 1/4	#2 or #3	#2 or #3	#6
150	1 1/2	#1/0 or #2/0	#2	#6
200	2	#3/0	#2	#6



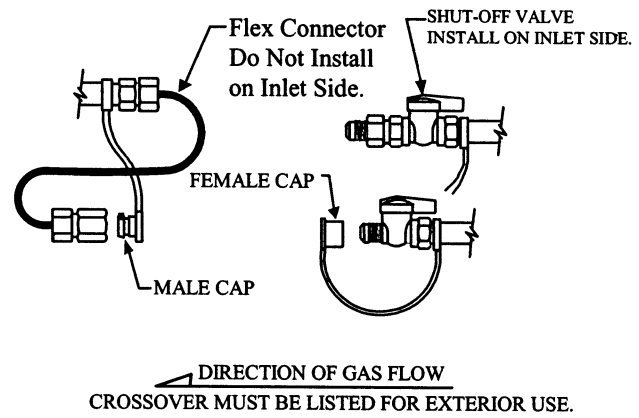
Figure: 10 TAC §80.25(k)(2)

**FUEL GAS PIPE CROSSOVER CONNECTIONS**

**Method A**



**Method B**



**Figure: 10 TAC §80.93(b)**

**Texas Department of Housing and Community Affairs  
Tax Lien File Layout**

<b>MUST be ASCII Fixed Record Layout (Text Format)</b>			
<b>516 bytes total per each record</b>			
<b>All text fields, addresses, names, etc should be left justified.</b>			
<b>ITEM</b>	<b>PICTURE</b>	<b>OFFSET</b>	<b>Additional Information for Accurate Filing</b>
<b>Home Identification</b> Label-No	Alpha 10	1-10	The label number must be exactly 10 characters - anything more or less will be invalid. Also, additional text ( <i>i.e.</i> , "Lab#" before the label or "A" or "A/B" after the number) will invalidate the field.  If there is no label number, LEAVE SPACES BLANK – DO NOT enter ZEROS, UNKNOWN, NONE or anything else in this field.
<b>Serial-No</b>	Alpha 26	11-36	Serial numbers must only include the number of the first section - and not be prefixed with anything else ( <i>i.e.</i> , SER#, #, S#, or using both section letters as A/B).  The chances of recording a lien with only a serial number are very slim. Having a label number is the best chance for a successful recording.  If there is no serial number, LEAVE SPACES BLANK – DO NOT enter ZEROS, UNKNOWN, NONE or anything else in this field.
<b>FILLER (blank spaces)</b>	Alpha 20	37-56	Model name is no longer required, so leave the 20-spaces originally allocated for this blank.
<b>Taxpayer Identification</b>			
Taxpayer-Name	Left Justified Alpha 40	57-96	
Taxpayer-Name2	Left Justified Alpha 40	97-136	
Taxpayer-Addr1	Left Justified Alpha 30	137-166	
Taxpayer-Addr2	Left Justified Alpha 30	167-196	
Taxpayer-City	Left Justified Alpha 20	197-216	
Taxpayer-State	Left Justified Alpha 2	217-218	
Taxpayer-Zipcode	Alpha 10	219-228	

ITEM	PICTURE	OFFSET	Additional Information for Accurate Filing
<b>Collector Identification</b>			
Collector-Tax-Entity-ID or Central Tax Collector Number	Alpha 10	229-238	The taxing entity id for Central Tax Collector number MUST be 10 characters and in the following format XXX-XXX-XX. If the State Comptroller's Office has not assigned a taxing entity ID to the taxing entity, enter 999-999-99 in this field.
Collector-Name	Left Justified Alpha 40	239-278	Enter the name of the taxing jurisdiction.
Collector-Name2	Left Justified Alpha 40	279-318	Enter the name of the collector.
Collector-Addr1	Left Justified Alpha 30	319-348	
Collector-Addr2	Left Justified Alpha 30	349-378	
Collector-City	Left Justified Alpha 20	379-398	
Collector-State	Left Justified Alpha 2	399-400	
Collector-Zipcode	Alpha 10	401-410	
<b>Lien Information</b>			
Tax-Roll-Account-No	Alpha 26	411-436	
FILLER (blank spaces)	Alpha 8	437-444	Lien date is the date the lien is received by TDHCA and will be inserted when recorded; so leave the 8-spaces originally allocated for this blank.
Tax-Year - YYYY	Alpha 4	445-448	
Tax Amount	Alpha 8	449-456	The tax amount is required and must be entered without a decimal point (Example: If tax amount is \$300.25, please entered as 00030025).
Release-Date -- YYYYMMDD	Alpha 8	457-464	The date MUST be formatted as YYYYMMDD and have no slashes or spaces.
FILLER (blank spaces)	Alpha 49	465-513	
County Code	Alpha 3	514-516	A carriage return after entering the 3-digit County Code is needed after each record for proper formatting.

Figure: 10 TAC §80.100(b)(1)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.idhca.state.tx.us/mh/index.htm](http://www.idhca.state.tx.us/mh/index.htm)

Texas Manufacturer's Application for License (Please type or print clearly.)					
Check One: <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other					
1. Business Name: _____					
DBA Name: _____					
2. Business Owner's Name: _____					
3. Have you ever been licensed by TDHCA? YES / NO    If so, please provide license number: _____					
4. Location Address:	City	State	Zip	County	Phone/Fax
5. Mailing Address:					
6. Date applicant became owner, operator (or date incorporated): _____					
7. Provide complete information on ALL corporate officers or partners. <i>NOTE: Providing your social security number is optional, HOWEVER, the processing of your application may be delayed without it.</i>					
Name and Title	Home Mailing Address		Home Phone	Date of Birth	SSN
8. Have you, or a corporate officer or partner, been convicted of any felony or misdemeanor offense, other than a Class C misdemeanor for traffic violations, within the five years PRECEDING this application? <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, complete the enclosed Criminal Conviction Questionnaire.					
Are you in arrears on any taxes owed to the State of Texas? <input type="checkbox"/> YES <input type="checkbox"/> NO					
Are you in arrears on a guaranteed student loan? <input type="checkbox"/> YES <input type="checkbox"/> NO					
Plant Certification Date: _____					
Inspection Primary Inspection Agency (IPIA):    Label Prefix: [       ]					
Design Approval Primary Inspection Agency (DAPIA): _____					
If your facility is outside of Texas, you <b>MUST</b> complete the Out of State Manufacturer's License form or provide an additional requirement.					
<b>Certification</b>					
License is subject to revocation, if the Department is <b>NOT</b> notified in writing of any changes in the information given on this application or if there is a violation of the law.					
With knowledge of penalties for false statements, I certify that to the best of my knowledge all information submitted on this application and on all attached documents is true and correct.					
(Signature of Applicant or President, if incorporated)		(Date)		(Signature of Secretary, if incorporated)	
<b>Department Use Only</b>					
<b>Training:</b>		<b>Fees:</b>		<b>Additional Requirements:</b>	
<input type="checkbox"/> 20 hours of Department Instruction in Austin, TX		<input type="checkbox"/> \$250.00 Training Fee		<input type="checkbox"/> The required BOND/CD	
<input type="checkbox"/> In-Plant Training Session		<input type="checkbox"/> \$850.00 Manufacturer License Fee			

Figure: 10 TAC §80.100(b)(2)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489  
(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>Out of State Manufacturer's Application for License</b> <i>(Please type or print clearly.)</i>					
<b>Check One:</b> <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other					
<b>1. Business Name:</b> _____ <b>DBA Name:</b> _____					
<b>2. Business Owner's Name:</b> _____					
<b>3. Have you ever been licensed by TDHCA? YES / NO    If so, please provide license number:</b>					
<b>4. Location Address:</b>	City	State	Zip	County	Phone/Fax
<b>5. Mailing Address:</b>					
<b>6. Date applicant became owner, operator (or date incorporated):</b> _____					
<b>7. Provide complete information on ALL corporate officers or partners.</b> <i>NOTE: Providing your social security number is optional, HOWEVER, the processing of your application may be delayed without it.</i>					
Name and Title	Home Mailing Address	Home Phone	Date of Birth	SSN	
<b>8. Have you, or a corporate officer or partner, been convicted of any felony or misdemeanor offense, other than a Class C misdemeanor for traffic violations, within the five years PRECEDING this application?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO <i>If YES, complete the enclosed Criminal Conviction Questionnaire.</i>					
Are you in arrears on any taxes owed to the State of Texas? <input type="checkbox"/> YES <input type="checkbox"/> NO Are you in arrears on a guaranteed student loan? <input type="checkbox"/> YES <input type="checkbox"/> NO Plant Certification Date: _____ Inspection Primary Inspection Agency (IPIA):                      Label Prefix: [       ] Design Approval Primary Inspection Agency (DAPIA): _____					
<b>Certification</b>					
License is subject to revocation, if the Department is <b>NOT</b> notified in writing of any changes in the information given on this application or if there is a violation of the law.  With knowledge of penalties for false statements, I certify that to the best of my knowledge all information submitted on this application and on all attached documents is true and correct.					
(Signature of Applicant or President, if incorporated)		(Date)		(Signature of Secretary, if incorporated)	
<b>Department Use Only</b>					
<b>Training:</b> <input type="checkbox"/> 20 hours of Department Instruction in Austin, TX <input type="checkbox"/> In-Plant Training Session		<b>Fees:</b> <input type="checkbox"/> \$250.00 Training Fee <input type="checkbox"/> \$425.00 Manufacturer License Fee		<b>Additional Requirements:</b> <input type="checkbox"/> The required BOND/CD <input type="checkbox"/> OR Service Facility in Texas <i>(see back of form)</i>	

**Section 1201.106(b) of the Manufactured Housing Standards Act states:**

.....In order to assure the availability of prompt and satisfactory warranty service, a manufacturer, which does not have a licensed manufacturing plant or other facility in this state from which warranty service and repairs can be provided and made, shall be bonded or post other security in an additional amount of \$100,000.....

**10 Texas Administrative Code, Section 80.40(d)**

- (d) To be exempt from the additional security as required by §1201.106(b) of the Standards Act, a manufacturer who does not have a manufacturing plant in this state must have a *bona fide* service facility.
  - (1) The manufacturer shall provide the Department with the name, address and phone number of the service facility, conspicuous notice of which shall be provided to each Texas retailer who purchases homes from the manufacturer.
  - (2) The service facility shall be capable of compliance with the provisions of Sub-part I of the Manufactured Housing Improvement Act (latest edition) and capable of providing warranty service within the reasonable time requirements set by the Department in §80.73 of this title (relating to Procedures for Handling Consumer Complaints), and shall be subject to periodic review and inspection by Department personnel.
  - (3) If the Department determines that the requirements of paragraph (2) of this subsection have not been met, notice must be sent of that determination and of the requirement of an additional bond amount.
  - (4) Unless additional security is provided as required by the Standards Act, all out of state manufacturers must disclose their in-state service facility on each renewal of their license.

Figure: 10 TAC §80.100(b)(3)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

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(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>RBI APPLICATION FOR LICENSE</b> <i>(Please type or print clearly.)</i>					
<b>Check one:</b> <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other					
<b>1. Business Name:</b> _____ <b>DBA Name:</b> _____					
<b>2. Business Owner's Name:</b> _____					
<b>3. Have you ever been licensed by TDHCA? YES / NO</b> If so, please provide license number: _____					
<b>4. Location Address:</b>	City	State	Zip	County	Phone/Fax
<b>5. Mailing Address:</b>					
<b>6. Date applicant became owner, operator (or date incorporated):</b> _____					
<b>7. Provide complete information on ALL corporate officers or partners.</b> <i>NOTE: Providing your social security number is optional, HOWEVER, the processing of your application may be delayed without it.</i>					
<b>Name and Title</b>	<b>Home Mailing Address</b>	<b>Home Phone</b>	<b>Date of Birth</b>	<b>SSN</b>	
<b>8. Have you, or a corporate officer or partner, been convicted of any felony or misdemeanor offense, other than a Class C misdemeanor for traffic violations, within the five years PRECEDING this application?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, complete the enclosed <i>Criminal Conviction Questionnaire</i> .					
<b>9. Indicate which type of license you are applying for:</b> <input type="checkbox"/> R= Retailer <input type="checkbox"/> RB= Retailer/Broker <input type="checkbox"/> RI=Retailer/Installer <input type="checkbox"/> RBI=Retailer/Broker/Installer <input type="checkbox"/> B= Broker <input type="checkbox"/> I= Installer					
<b>10. What function(s) will you be performing:</b> <input type="checkbox"/> Transporting <input type="checkbox"/> Installation					
Are you in arrears on any taxes owed to the State of Texas? <input type="checkbox"/> YES <input type="checkbox"/> NO Are you in arrears on a guaranteed student loan? <input type="checkbox"/> YES <input type="checkbox"/> NO					
<b>Certification</b>					
License is subject to revocation, if the Department is <b>NOT</b> notified in writing of any changes in the information given on this application or if there is a violation of the law.  With knowledge of penalties for false statements, I certify that to the best of my knowledge all information submitted on this application and on all attached documents is true and correct.					
_____ <i>(Signature of Applicant or President, if incorporated)</i>		_____ <i>(Date)</i>		_____ <i>(Signature of Secretary, if incorporated)</i>	
_____ <i>(Date)</i>		_____ <i>(Date)</i>			
<b>Department Use Only</b>					
<b>Education:</b>  <input type="checkbox"/> 20 hours of Department Education in Austin, Texas	<b>Fees:</b> <input type="checkbox"/> \$250.00 Education Fee <input type="checkbox"/> \$550.00 Retailer Licensing Fee <input type="checkbox"/> \$900.00 Retailer/Broker Licensing Fee <input type="checkbox"/> \$900.00 Ret./Installer Licensing Fee <input type="checkbox"/> \$1300.00 Ret./Brok./Inst. Licensing Fee	<b>Additional Requirements:</b> <input type="checkbox"/> \$50,000 BOND/CD <input type="checkbox"/> Public Liability Insurance <input type="checkbox"/> *Motor Vehicle Liability Insurance <input type="checkbox"/> *Cargo Insurance (*if transporting homes) <input type="checkbox"/> Retailer's Physical Damage			

Figure: 10 TAC §80.100(b)(4)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489  
(800) 500-7074, (512) 475-2200 FAX (512) 475-1109  
Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>RETAILER WITH BRANCH LOCATIONS APPLICATION FOR LICENSE</b> <i>(Please type or print clearly.)</i>															
<b>Check one:</b> <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other															
<b>1. Business Name:</b> _____ <b>DBA Name:</b> _____															
<b>2. Business Owner's Name:</b> _____															
<b>3. Have you ever been licensed by TDHCA? YES / NO</b> If so, please provide license number: _____															
<b>4. Location Address:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%; border: none;">City</td> <td style="width: 15%; border: none;">State</td> <td style="width: 15%; border: none;">Zip</td> <td style="width: 20%; border: none;">County</td> <td style="width: 25%; border: none;">Phone/Fax</td> </tr> <tr> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> </tr> </table>						City	State	Zip	County	Phone/Fax					
City	State	Zip	County	Phone/Fax											
<b>5. Mailing Address:</b> <table style="width: 100%; border: none;"> <tr> <td style="width: 25%; border: none;"></td> <td style="width: 15%; border: none;"></td> <td style="width: 15%; border: none;"></td> <td style="width: 20%; border: none;"></td> <td style="width: 25%; border: none;"></td> </tr> <tr> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> <td style="border: 1px solid black; height: 20px;"></td> </tr> </table>															
<b>6. Date applicant became owner, operator (or date incorporated):</b> _____															
<b>7. Provide complete information on ALL corporate officers or partners.</b> <i>NOTE: Providing your social security number is optional, HOWEVER, the processing of your application may be delayed without it.</i>															
<b>Name and Title</b>	<b>Home Mailing Address</b>	<b>Home Phone</b>	<b>Date of Birth</b>	<b>SSN</b>											
<b>8. Have you, or a corporate officer or partner, been convicted of any felony or misdemeanor offense, other than a</b> <b>Class C misdemeanor for traffic violations, within the five years PRECEDING this application?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO    If YES, complete the enclosed Criminal Conviction Questionnaire.															
<b>9. Indicate which type of license you are applying for:</b> <input type="checkbox"/> Register a primary location with branch locations specified on an attached sheet (attach bond for each location) <input type="checkbox"/> Register an additional branch location to an existing Retailers Branch															
<b>10. What function(s) will you be performing:</b> <input type="checkbox"/> Transporting <input type="checkbox"/> Installation															
<b>11. Name of related person who attended licensing education class:</b> _____															
Are you in arrears on any taxes owed to the State of Texas? <input type="checkbox"/> YES <input type="checkbox"/> NO Are you in arrears on a guaranteed student loan? <input type="checkbox"/> YES <input type="checkbox"/> NO															
<b>Certification</b>															
License is subject to revocation, if the Department is <b>NOT</b> notified in writing of any changes in the information given on this application or if there is a violation of the law.  With knowledge of penalties for false statements, I certify that to the best of my knowledge all information submitted on this application and on all attached documents is true and correct.															
_____ <i>(Signature of Applicant or President, if incorporated)</i>		_____ <i>(Date)</i>	_____ <i>(Signature of Secretary, if incorporated)</i>		_____ <i>(Date)</i>										
<b>Department Use Only</b>															
<b>Education:</b>	<b>Fees:</b>	<b>Additional Requirements:</b>													
<input type="checkbox"/> 20 hours of Department Education in Austin, Texas	<input type="checkbox"/> \$250.00 Education Fee <input type="checkbox"/> \$550.00 Retailer Licensing Fee <input type="checkbox"/> \$900.00 Retailer/Broker Licensing Fee <input type="checkbox"/> \$900.00 Ret./Installer Licensing Fee <input type="checkbox"/> \$1300.00 Ret./Brok/Inst. Licensing Fee	<input type="checkbox"/> \$50,000 BOND/CD <input type="checkbox"/> Public Liability Insurance <input type="checkbox"/> *Motor Vehicle Liability Insurance <input type="checkbox"/> *Cargo Insurance (*if transporting homes) <input type="checkbox"/> Retailer's Physical Damage													



Figure: 10 TAC §80.100(b)(5)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

SALESPERSON'S APPLICATION FOR LICENSE (Please type or print clearly.)			
1. Name of Salesperson:		2. Date of Birth:	/ /
3. Home Address:		4. Social Security #:	- -
City:	State:	Zip:	
5. Telephone: Home ( )	Telephone: Work ( )	Fax: ( )	
6. Sponsoring Retailer:		Sponsoring Retailer's Lic. #:	
7. Business Address:			
City:	State:	Zip:	
8. List dates, employer and address for each job or position at which you have worked for the past three years. All gaps in employment must be explained.			
(Dates)	(Employer)	(Address)	
(Dates)	(Employer)	(Address)	
(Dates)	(Employer)	(Address)	
9. Have you ever been licensed by TDHCA? YES / NO If so, please provide license number:			
10. Have you been convicted of any felony or misdemeanor offense, other than a Class C misdemeanor for a traffic violation, within the five years PRECEDING this application? [ ] YES [ ] NO If YES, complete the enclosed Criminal Conviction Questionnaire.			
Are you in arrears on any taxes owed to the State of Texas? [ ] YES [ ] NO			
Are you in arrears on a guaranteed student loan? [ ] YES [ ] NO			
<b>Certification</b>			
License is subject to revocation, if the Department is <b>NOT</b> notified in writing of any changes in the information given on this application or if there is a violation of the law. License will be suspended if the continuing education requirements of §1201.113 are not completed within 90 days from the date the license is issued.			
With knowledge of penalties for false statements, I certify that to the best of my knowledge all information submitted on this application and on all attached documents is true and correct.			
(Signature of Applicant)		(Date)	(Signature of Sponsoring Retailer)
			(Date)
<b>Payment</b>			
Attach the required license fee of \$200.00 (two hundred dollars) to this application. Payment may be made by company or business firm check, money order or cashier's check. Please make payable to: <b>Texas Department of Housing and Community Affairs</b> . Mail to the address listed at the top of this form.			
<b>Department Use Only</b>			
Fees	[ ] \$200.00 License Fee	Date Received:	/ /

Figure: 10 TAC §80.100(b)(6)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

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(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

**Continuous Manufactured Housing Surety Bond**

The State of \_\_\_\_\_ TDHCA license # (if known): \_\_\_\_\_

County of \_\_\_\_\_

I (we) \_\_\_\_\_,  
(Name of Owner, Partner, or Corporate Officer)

to be licensed as a manufactured  
housing

\_\_\_\_\_ (Manufacturer, Retailer, Broker, Installer, Or Rebuilder)

doing business as \_\_\_\_\_ / \_\_\_\_\_  
(Assumed or Corporate Name) (Trade Name of Location)

at \_\_\_\_\_ / \_\_\_\_\_  
(Physical Street Address, City, State, Zip) (Mailing Address if Different)

( ) \_\_\_\_\_, as PRINCIPAL and \_\_\_\_\_  
(Telephone) (Surety)

as SURETY, duly authorized and qualified to do business as a surety company in this state, are firmly bound unto the special account referred to in the Texas Manufactured Housing Standards Act (the "Act"), Subchapter I, as the Manufactured Homeowners' Recovery Fund, in the sum of \$\_\_\_\_\_, payable at Austin, Travis County, Texas for use by the Texas Department of Housing and Community Affairs to satisfy claims resulting from any cause of action directly related to the construction, re-building, sale, lease-purchase, exchange, brokerage, or installation of a manufactured home for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that the PRINCIPAL shall faithfully discharge all obligations, duties, and responsibilities under the Act as that statute is presently worded and as it may hereafter be amended to read, and all applicable rules and regulations of the Executive Director of the Texas Department of Housing and Community Affairs adopted to carry out the provisions of said Act, subject, however, to the following terms and conditions:

- 1) It is agreed that as of \_\_\_\_\_, 20\_\_\_\_, this bond shall be in full force and effect and remain in effect until canceled by the surety.
- 2) This bond is valid when received by the Texas Department of Housing and Community Affairs' Austin office.
- 3) The bonding company must provide written notification to the Department at least sixty (60) days prior to the cancellation of this bond.
- 4) This bond shall be open to successive claims up to the face value of the bond. The surety shall not be liable for successive claims in excess of the \_\_\_\_\_ bond amount, regardless of the number of years the bond remains in force.

IN WITNESS WHEREOF said PRINCIPAL and SURETY have executed this bond this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, to be effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Surety By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

Surety Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Street / P.O. Box

City

Zip

Phone #: \_\_\_\_\_

( )

Fax #: \_\_\_\_\_

( )

Signature of Owner, Partner, or Corporate Officer: \_\_\_\_\_

Title: \_\_\_\_\_

Bond Number: \_\_\_\_\_  
(For Surety Company's Use)

NOTE: The physical street address listed on this surety bond form must match the physical street address listed on the application.

Form: Surety Bond

Form Page 1 of 1

**Figure: 10 TAC §80.100(b)(7)**

Texas Department of Housing and Community Affairs

## MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

**Internet Address:** [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

# DEPOSIT ACCOUNT CONTROL AGREEMENT (THIS “AGREEMENT”)

FINANCIAL INSTITUTION			DEPOSITOR		
<hr/>			<hr/>		
<i>Name</i>			<i>Name</i>		
<hr/>			<hr/>		
<i>Address</i>			<i>Address</i>		
<hr/>			<hr/>		
<i>City</i>	<i>State</i>	<i>ZIP</i>	<i>City</i>	<i>State</i>	<i>ZIP</i>
<hr/>			<hr/>		
<b>ACCOUNT</b>					
Account number: <hr/>					
Type of account: <hr/>					
Account balance: U. S. \$ <hr/>					
Required minimum balance: U. S. \$ <hr/>					

This Agreement is a deposit account control agreement, and it is made an entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the above-named **Financial Institution** and the above-named **Depositor**. The Financial Institution and the Depositor do hereby certify, acknowledge, and agree as follows:

1. **General Nature of this Agreement:** This Agreement is entered into for the sole express purpose of using the above-described **Account** for the purpose of providing the required security, as specified in TEX. OCC. CODE, §1201.106, to enable the Depositor to meet the qualifications to apply for, receive, and hold a license under the Texas Manufactured Housing Standards Act, TEX. OCC. CODE, Chap. 1201 (the “Act”). This Agreement is a security agreement as that term is defined in Tex. Bus. & C., Chap. 9 under which the Depositor grants to the Texas Department of Housing and Community Affairs, Manufactured Housing Division, acting by and through its executive director (the “Division”) the security interest in the Account described in Section 5, below. This Agreement is also a control agreement under which the Division is given “control” of the Account as “control” is defined in Tex. Bus. & C., Chap. 9.
2. **The Account.** The Financial Institution and the Depositor agree and certify that as of the date hereof:
  - a) the Account is maintained by the Depositor with the Financial Institution;
  - b) the Account is a deposit account as defined by Tex. Bus. & C., §9.102;
  - c) the Account is open and in good standing;
  - d) the Depositor is the sole depositor and sole owner of the Account;
  - e) the balance of the Account is as set forth above;
  - f) the Account has no stated maturity date;
  - g) no person or entity other than the Division has control of the Account;

- h) except as provided for herein, the Account is not subject to any pledge, security interest, lien, charge, encumbrance, hypothecation, right of recoupment, right of set-off, or any other interest;
- i) no funds in the Account are proceeds in which any person or entity other than the Division has a security interest or lien of any kind;
- j) no fund will be deposited into the Account that constitute proceeds in which any person or entity other than the Division has a security interest or other lien;
- k) the Financial Institution is a bank as defined by Tex. Bus. & C., §9.102; and
- l) the Financial Institution has the State of Texas as its jurisdiction for purposes of Tex. Bus. & C., §9.304.

3) **Withdrawals by the Division:** The Division may, at any time, make withdrawals from the Account in order to reimburse the Texas Manufactured Homeowners' Recovery Trust Fund for amounts paid by that fund in accordance with the Act on account of an act or omission of the Depositor. Payment will be made to the Division upon the written demand of the Division, acting by and through its Executive Director at any time without notice to the Depositor and notwithstanding any instructions to the contrary by the Depositor or any other person or entity. The Division may make partial withdrawals from the Account, regardless of whether the balance of the Account is below, at, or above the required minimum balance specified above. Withdrawals need not be in any specified minimum amount or increment.

The Depositor and the Financial Institution agree that the Financial Institution will comply with all instructions originated by the Division directing the disposition of funds from the Account without further consent by the Depositor or any other person or entity. Without limiting the generality of the foregoing, the Division may direct the Financial Institution to stop payment on instruments drawn on the Account and direct the transfer of funds from the Account even if such withdrawal will cause subsequently issued or presented items to be dishonored for lack of funds. In the event of any conflict between instructions from the Division with instructions from anyone else, the Division's instructions will be controlling.

**The Depositor, the Division and the Financial Institution acknowledge and agree that the Division has "control" of the Account (as such term is used in Tex. Bus. & C. Chapter 9), and that the Division's security interest in the Account is perfected by reason of such control.**

4) **Maintenance of required balance:** The Depositor is required to maintain the balance of the Account at or above the above-described minimum balance, and the Depositor agrees and undertakes to do so. If the Depositor fails to do so, the Division may withdraw the entire remaining balance of the Account.

5) **Security Interest:** The Depositor hereby grants the Division a security interest in the Account, together with all funds hereafter deposited to and all interest earned on or credited to the Account) to secure the obligations of the Depositor under the Act and to secure the right of the Division to withdraws funds from the Account and apply such funds to the reimbursement of the Texas Manufactured Homeowners' Recovery Trust Fund as provided for herein. The Financial Institution hereby acknowledges and consents to the creation of such Security Interest.

6) **Subordination:** The Financial Institution hereby subordinates any security interest, lien or other interest it may now or hereafter acquire in the Account to the rights of the Division under this Agreement. The Depositor acknowledges and consents to this subordination. This subordination shall remain in effect so long as this Agreement remains in effect.

7) **No other security agreements:** The Depositor has not granted and will not grant any other person or entity a security interest in, lien upon, or other interest in the Account. The Financial Institution will not enter into any agreement accepting or agreeing to the granting by Depositor to any other person or entity of a security interest in, lien upon, or other interest in the Account.

8) **Maintaining the Account:** The Financial Institution and the Depositor agree that the Depositor shall not be allowed to close the Account. The Depositor will not make any withdrawal from or write any check or other order on the Account. The Financial Institution will not permit any withdrawal from the Account by any person or entity other than the Division or honor any check or other order on the Account by a person or entity other than the Division.

9) **Statements:** The Financial Institution shall the Division a copy of each statement on the Account that it sends to the Depositor.

10) **Miscellaneous:**

a) Captions are for convenience only and are not to be considered in construing this Agreement.

b) This Agreement is binding on the Depositor and the Financial Institution and their respective representatives, heirs, successors, and assigns.

c) This Agreement is made and entered into in the State of Texas and is subject to the laws of the State of Texas, except as federal law may otherwise apply.

d) Venue for any proceedings in any way relating to his Agreement lies exclusively in the District Court for and in Travis County, Texas.

e) If any provision hereof is found to be illegal, invalid, or unenforceable, such illegal, invalid or unenforceable portion shall be reformed to be legal, valid, and enforceable and to effectuate to the fullest extent possible the purposes expressed herein.

f) This Agreement may not be modified or have any provision hereof waived in anyway without the express, prior, written consent of the Division which may be withheld without need of any reason.

g) This Agreement has been entered onto the official books and records of the Financial Institution.

11) **Authority:** Each party to this Agreement represents and warrants to the other parties to this Agreement that:

a) The execution, delivery, and performance of this Agreement has been duly authorized by all necessary corporate and other action;

b) The execution, delivery, and performance of this Agreement will not violate any legal requirement or agreement to which are subject; and

c) Any individual executing this Agreement on behalf of any business entity has been duly elected or appointed, is currently serving, and possesses all required power and

authority to execute, deliver, and cause this Agreement to be performed by the business entity on behalf of which he or she is executing this Agreement.

**IN WITNESS WHEREOF**, the Financial Institution and the Depositor, each intending to be legally bound, have executed this Agreement effective as of the date first specified above.

\_\_\_\_\_  
**Financial Institution**

\_\_\_\_\_  
**Depositor (if Depositor is an individual)**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
**Depositor (if Depositor is a business entity)**

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**The Texas Department of Housing and Community Affairs, Manufactured Housing Division executes this Agreement solely for the limited purposes of agreements to such provisions as are necessary to make this Agreement binding and effective as a security agreement and control agreement.**

**Texas Department of Housing and Community Affairs,  
Manufactured Housing Division**

By: \_\_\_\_\_

Figure: 10 TAC §80.100(b)(8)

# **MANUFACTURER'S CERTIFICATE OF ORIGIN TO A MANUFACTURED HOME**

THE UNDERSIGNED MANUFACTURER HEREBY CERTIFIES THAT THE NEW MANUFACTURED HOME DESCRIBED HEREIN, THE PROPERTY OF SAID MANUFACTURER, HAS BEEN TRANSFERRED ON THE DATE SET FORTH HEREIN, SUBJECT TO THE TERMS AND CONDITIONS OF THE INVOICE OR OTHER APPLICABLE AGREEMENT TO:

NAME OF RETAILER		REG. NO.	ADDRESS OF RETAILER		CITY	STATE	ZIP	
TRANSFER DATE	MODEL DESIGNATION		DATE OF MANUFACTURE		NUMBER OF SECTIONS			TOTAL SQUARE FEET
LABEL/DECAL NUMBER	SERIAL NUMBER		WEIGHT		SIZE			EXCLUDING HITCH
LABEL/DECAL NUMBER	SERIAL NUMBER		WEIGHT		SIZE			EXCLUDING HITCH
LABEL/DECAL NUMBER	SERIAL NUMBER		WEIGHT		SIZE			EXCLUDING HITCH
LABEL/DECAL NUMBER	SERIAL NUMBER		WEIGHT		SIZE			EXCLUDING HITCH
<b>FIRST ASSIGNMENT (For Retailers Only)</b>					<b>CONSTRUCTED FOR:</b>			
TO:		DATE		ENERGY ZONE _____ WIND ZONE _____				
NAME OF RETAILER		REGISTRATION NO.		ROOF LOAD ZONE _____				
ADDRESS		THE MANUFACTURER WARRANTS THAT A GOOD AND MARKETABLE TITLE IS BEING TRANSFERRED AND THAT NO OTHER VALID MANUFACTURER'S CERTIFICATE OF ORIGIN IS ISSUED AND OUTSTANDING ON THE MANUFACTURED HOME DESCRIBED HEREIN.						
CITY		STATE	ZIP	MANUFACTURER OF HOME _____ REGISTRATION NO. _____				
TYPE NAME AND TITLE OF PERSON AUTHORIZED TO SIGN FOR TRANSFERENCE TO RETAILER								
AUTHORIZED SIGNATURE _____								
SECOND ASSIGNMENT (For Retailers Only)								
TO:		DATE		ADDRESS OF MANUFACTURER _____				
NAME OF RETAILER		REGISTRATION NO.		CITY _____ STATE _____ ZIP _____				
ADDRESS		AUTHORIZED SIGNATURE/TITLE _____						
CITY		STATE	ZIP	INVOICE # _____				
TYPE NAME AND TITLE OF PERSON AUTHORIZED TO SIGN FOR TRANSFERENCE TO RETAILER								
AUTHORIZED SIGNATURE _____								
NOTE: AT FIRST RETAIL SALE THIS CEASES TO EVIDENCE OWNERSHIP OF THE HOME.								

Form: Manufacturer's Certificate of Origin

Form Page 1 of 1

**Figure: 10 TAC §80.100(b)(9)**

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

## **MAKING AN INFORMED DECISION ABOUT BUYING A MANUFACTURED HOME**

**\*Esta forma está disponible en Español a petición del vendedor  
o al llamar al 1-800-500-7074\***

**IF YOU HAVE QUESTIONS CALL 1-800-500-7074**

**WWW.TDHCA.STATE.TX.US/MH**

Ownership of ANY home brings many responsibilities. Buying a manufactured home involves many important and unique considerations. This disclosure is to assist you in recognizing and understanding many of those factors. Please read it carefully.

**CHOOSING A MANUFACTURED HOME AS YOUR HOME:** Manufactured homes come in a variety of sizes, styles, design features, amenities, and price ranges. All manufactured homes are built to federal standards established by the federal Department of Housing and Urban Development (HUD). Also, the federal government and the state of Texas requires manufacturers, retailers and installers to give certain warranties on manufactured homes. The type of warranties you receive will depend on whether you are purchasing a new or used manufactured home. You have the right to see the manufacturer's warranty and the retailer's warranty before entering into a binding agreement to purchase a manufactured home.

\_\_\_\_\_  
*initials*

**CHOOSING A MANUFACTURED HOME DEALER:** The State of Texas licenses and oversees manufacturers, retailers, brokers, salespersons, rebuilders, and installers of manufactured homes. The agency responsible for this licensing and oversight is the Texas Department of Housing and Community Affairs, Manufactured Housing Division (the "Department"). Your properly licensed manufactured home dealer should display, or be willing to show you, its license in its sales office. **Dealing with licensed parties can provide important consumer protections.**

\_\_\_\_\_  
*initials*



**DEPOSITS:** You may be required by a manufactured home dealer to place a deposit on a home, regardless of whether the home is on the dealer's sales lot, is being sold at another location, or will be ordered from a factory. The amount of the deposit is determined between you and your dealer. The deposit becomes a down payment upon execution of a binding written purchase agreement. You have the right to demand a refund of the deposit or down payment, and receive that refund within 15 days thereafter, if you timely and properly rescind the purchase agreement.

\_\_\_\_\_  
*initials*

**FINANCING OPTIONS:** A manufactured home in Texas has tremendous flexibility when it comes to financing because it can be financed as personal property (typically a consumer loan secured by the home only) or, if you own the land the home is on (or have a qualifying long term lease on the land) as real property (typically a mortgage loan secured by the home and the land). You should talk to possible lenders about the terms they can offer. If you think one lender is offering too high a rate, talk to another lender.

Consumer lenders must generally be registered with the Office of the Consumer Credit Commissioner. Mortgage loans are usually originated by mortgage brokers (licensed with the Savings and Mortgage Lending Department), mortgage bankers (registered with the Savings and Mortgage Lending Department), or financial institutions (regulated by state and/or federal regulators, depending on the type of financial institution).

**WHEN YOU MAKE A DECISION ABOUT BUYING A  
MANUFACTURED HOME, PLAN FOR FLEXIBILITY AND CHANGE.**

**YOUR LOAN WILL BE A MAJOR FACTOR IN DETERMINING YOUR PAYMENTS, BUT THERE ARE OTHER IMPORTANT FACTORS YOU SHOULD ALSO THINK ABOUT, SUCH AS:**

- Adjustable rate loans – If rates go up, your loan payments will go up.
- Property taxes – Changes in property valuation and changes in tax rate can result in changes in your payments.
- Insurance – If premiums increase, your payments will go up.
- Lot rent – If you are renting the lot your home is on, your rent may be subject to increase.

\_\_\_\_\_  
*initials*

**LOCAL RESTRICTIONS AND REQUIREMENTS (ZONING):** Depending on where a home is to be located it may be subject to special local requirements, including zoning and deed restrictions. These local requirements may affect where the home can be placed and may also involve other related requirements (and expenses) such as size requirements, construction requirements, Contact the local municipality, county, and subdivision manager to find out what, if

any, requirements of this sort may apply to any site where you are going to place a manufactured home.

---

*initials*

**SITE PREPARATION:** A consumer is responsible for proper preparation of the site. If you do not think you can prepare your site properly, consider hiring someone else with the right experience and equipment to do it for you. Proper site preparation includes a site for placement of the home that has good drainage so that water will not collect or run under or around the home; and firm compacted soil with no stumps, debris, or other matter. The site that is selected and prepared also needs to meet any setback or other placement requirements and have access to any required water, septic system, and utilities.

**PROPER SITE PREPARATION IS ESSENTIAL!**

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*initials*

**INSTALLATION:** If you are purchasing a NEW manufactured home. Installation must be included. If you are purchasing a USED manufactured home, installation may or may not be included. If installation is not included and you arrange for it yourself, remember, ONLY A LICENSED INSTALLER may install a manufactured home. The installer who actually installs the home must also provide a warranty.

**PROPER INSTALLATION BY A LICENSED INSTALLER IS  
REQUIRED BY LAW IN ORDER FOR A HOME TO BE OCCUPIED.**

If you are buying a home that has already been installed, you should ask the selling retailer if they will check the leveling, check for the presence (if required) and condition of any vapor retarder, check anything else regarding the foundation/stabilization system, or provide any other installation-related services.

If you acquire a used manufactured home that is already installed in a Wind Zone II county but the home is a Wind Zone I home, which means that home was not designed or constructed to withstand a hurricane force wind occurring in a Wind Zone II or III area, the home cannot be installed in a Wind Zone II area unless it was constructed before September 1, 1997.

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*initials*

**UPKEEP AND MAINTENANCE:** ANY home requires regular upkeep and maintenance – things like periodic checking of and repairs to the roof, keeping vents and filters clear, maintaining septic systems and wells in safe and sanitary working order, caulking to prevent leaks, and periodic

painting. Also, depending on the foundation system you choose, a manufactured home may require periodic checking to be sure that it is still level and that the anchors and straps are secure.

\_\_\_\_\_  
*initials*

**LOT RENT:** If you rent the lot your home is on, in addition to the possibility of rent increases, it is possible that the property owner could decide to change the use of the land and not renew your lease. Although you would be given advance notice, this would mean that you would have to move your home and have it installed somewhere else.

\_\_\_\_\_  
*initials*

**WATER AND UTILITIES:** Be sure that your lot has access to water. If you must drill a well, consider contacting several drillers for bids. If water is available through a municipality, utility district, water district, or cooperative, you should inquire about the rates you will have to pay and the costs necessary to join the water system. Be sure that any utilities you will need are available at your site and, if they are not, find out what will be involved in getting them delivered and connected.

\_\_\_\_\_  
*initials*

**SEWER CONNECTIONS OR SEPTIC SYSTEMS:** If your lot is not serviced by a municipal sewer system or utility district, you will have to install an on-site sewer facility (commonly known as a septic system). There are a number of concerns or restrictions that will determine if your lot is adequate to support a septic system. Check with the local county or a licensed private installer to determine the requirements that apply to your lot and the cost to install such a system.

\_\_\_\_\_  
*initials*

**HOMEOWNERS ASSOCIATIONS AND FEES:** Many subdivisions have mandatory assessments and fees that lot owners must pay. Check with the manager of the subdivision in which your lot is located to determine if any fees apply to your lot.

\_\_\_\_\_  
*initials*

**PROPERTY TAXES:** Manufactured homes are appraised and subject to property taxes. Depending on the type of loan you have, your lender may escrow for these taxes, and this will increase your monthly payments. Whether you select personal property or real property status for your home may impact any homestead exemption that you may obtain to reduce your tax liability. Talk with the county tax office if you have any questions. Failing to pay your taxes or make

arrangements with the tax assessor-collector may place you at risk of having tax liens recorded on your home and, possibly, having the home foreclosed for non-payment of taxes. If you do not have a lender that escrows for the taxes, the tax assessor-collector will work out an escrow arrangement with you if requested.

\_\_\_\_\_  
*initials*

**INSURANCE:** Your lender will almost certainly require you to obtain insurance. You should request quotes from the agent of your choice to obtain the insurance. Even if you do not have a lender, it is a good idea to obtain insurance to protect your home and yourself.

\_\_\_\_\_  
*initials*

**THE TEXAS MANUFACTURED HOMEOWNERS' RECOVERY TRUST FUND (the "FUND"):** The Fund is established by law to protect consumers who incur certain actual damages arising from specified violations of law involving acts or omissions of licensees. To learn more about the Fund you can check the Department's website at: [www.tdhca.state.tx.us/mh](http://www.tdhca.state.tx.us/mh) or call the Department for a printed description of the Fund and how it works. Claims on the Fund must be verified and must be made within two years from the date of the act or omission or when it was discovered or reasonably should have been discovered.

\_\_\_\_\_  
*initials*

**RIGHT OF RESCISSION:** Once you enter into a contract with a selling retailer to acquire a manufactured home, you have a right to rescind the contract. That right expires, unless you modify or waive it, at midnight on the third calendar day after the day the contract is executed. The right to rescind may be modified or waived only if you have a *bona fide* emergency. The Department has rules about the detailed requirements for waivers and modifications. To give notice of a rescission you may send it to the retailer, prior to the deadline, by U.S. mail, in which case it will be deemed given when postmarked, or by other means, such as hand delivery, courier, FAX, or email, in which case it will be deemed given when it is actually delivered to the retailer. Any notice that does not contain an original live signature, such as a FAX or an email, must be confirmed by a written, signed notice, actually delivered or postmarked not later than 24 hours after the giving of the original notice. If you grant someone other than the retailer a lien on the home you are buying, the right of rescission automatically goes away when the lien is recorded with the TDHCA.

\_\_\_\_\_  
*initials*

This **Six Page Disclosure** was provided to me/us by the retailer and/or lender shown below on this date. It was provided to me/us before I/we completed a credit application (if a financed transaction), or before I/we signed a contract to purchase, exchange, or lease-purchase a manufactured home.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
RETAILER or LENDER

\_\_\_\_\_  
LICENSE NUMBER (if a retailer)

\_\_\_\_\_  
CUSTOMER signature

\_\_\_\_\_  
CUSTOMER signature

\_\_\_\_\_  
Customer printed name

\_\_\_\_\_  
Customer printed name

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Figure: 10 TAC §80.100(b)(10)**

Texas Department of Housing and Community Affairs  
**MANUFACTURED HOUSING DIVISION**  
P. O. BOX 12489 Austin, Texas 78711-2489  
(800) 500-7074, (512) 475-2200 FAX (512) 475-1109  
Internet Address: [www.idhca.state.tx.us/mh/index.htm](http://www.idhca.state.tx.us/mh/index.htm)

**WARRANTY AND DISCLOSURE  
FOR A USED MANUFACTURED HOME**

*If the manufactured home does not have a HUD Label or Texas Seal, a copy of this disclosure must be submitted to the Department along with an application for a Texas Seal and the required fee.*

<b>BLOCK 1: Home Information</b>					
Manufacturer Name:				Model:	
Address:				Date of Manufacture:	
City, State, Zip:				Total Square Feet:	
License Number:				Wind Zone:	
	<i>Label/Seal Number</i>	<i>Serial Number</i>	<i>Weight</i>	<i>Size*</i>	<i>* NOTE: Size must be reported as the outside dimensions (length and width) of the home as measured to the nearest ½ foot at the base of the home, exclusive of the tongue or other towing device.</i>
Section 1:				X	
Section 2:				X	
Section 3:				X	
Section 4:				X	
<b>BLOCK 2: Statement of Warranty</b>					
<b>(This block does not apply to exempt consumer to consumer sales.)</b>					
<p>The above-described home is warranted by the seller to the purchaser to be habitable and to remain habitable until the later of 60 days from the date of the purchase agreement selling or transferring the home or 60 days after the date that the installation of the home is completed. By “habitable” it is meant that:</p> <ul style="list-style-type: none"> <li>There is no defect or deterioration in or damage to the home that creates a dangerous situation;</li> <li>The plumbing, heating, and electrical systems are in safe working order;</li> <li>The walls, floor, and roof are: <ul style="list-style-type: none"> <li>- free from a substantial opening that was not designed and</li> <li>- structurally sound; and</li> </ul> </li> <li>All exterior doors and windows are in place. Any window that is designated an egress window is in working order.</li> </ul> <p>The PURCHASER, _____, must notify the SELLER, _____,</p> <p style="text-align: center;">(name of purchaser) <span style="margin-left: 150px;">(name of seller)</span></p> <p><b>IN WRITING within 65 DAYS of any DEFECT that makes the home NOT HABITABLE or the SELLER will have NO LIABILITY for the warranty of habitability.</b></p>					

<b>Appliances:</b> <i>Indicate the appliance being conveyed and describe any known defects.</i>			
Check Appliances Conveyed with home	Make and Model	Gas or Electric	Describe Any Known Defects
<input type="checkbox"/> Refrigerator			
<input type="checkbox"/> Range			
<input type="checkbox"/> Stove top only			
<input type="checkbox"/> Microwave			
<input type="checkbox"/> Washer			
<input type="checkbox"/> Dryer			
<input type="checkbox"/> Trash Compactor			
<input type="checkbox"/> Dishwasher			
<input type="checkbox"/> Other			
<b>Home:</b> <i>Any item present that does not describe any known defects is assumed to have no known defects.</i>			
<b>Interior</b>	<b>Describe Any Known Defects</b>		
Living room:			
Kitchen:			
Bedroom 1			
Bedroom 2			
Bedroom 3			
Bathroom 1			
Bathroom 2			
Laundry/utility room:			
Other rooms (list):			
<b>General Home Exterior</b>	<b>Describe Any Known Defects</b>		
Roof decking			
Roof covering			
Floor underside			
Walls			
Other			
<b>Systems</b>	<b>Describe Any Known Defects</b>		
Electrical system			
Water Heater			
Air Conditioner			
Plumbing system			
<b>BLOCK 3: Signatures</b>			
<i>I certify that the above information is, to the best of my knowledge, complete and accurate.</i>			
_____	_____	_____	
<i>(Seller's Signature)</i>	<i>(Printed Name of Seller or Seller's authorized representative)</i>	<i>(Date)</i>	
<i>I acknowledge receipt of the Warranty and Disclosure for the purchase of a used manufactured home.</i>			
_____	_____	_____	
<i>(Consumer/Purchaser's Signature)</i>	<i>(Printed Name of Consumer/Purchaser)</i>	<i>(Date)</i>	

Figure: 10 TAC §80.100(b)(11)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

**DISCLOSURE OF CONDITION  
OF A USED MANUFACTURED HOME**

*If the manufactured home does not have a HUD Label or Texas Seal, a copy of this disclosure must be submitted to the Department along with an application for a Texas Seal and the required fee.*

BLOCK 1: Home Information					
Manufacturer Name:				Model:	
Address:				Date of Manufacture:	
City, State, Zip:				Total Square Feet:	
License Number:				Wind Zone:	
	<i>Label/Seal Number</i>	<i>Serial Number</i>	<i>Weight</i>	<i>Size*</i>	<i>*NOTE: Size must be reported as the outside dimensions (length and width) of the home as measured to the nearest ½ foot at the base of the home, exclusive of the tongue or other towing device.</i>
Section 1:				X	
Section 2:				X	
Section 3:				X	
Section 4:				X	
BLOCK 2: Signatures					
<i>I certify that the above information is, to the best of my knowledge, complete and accurate.</i>					
_____ (Seller's Signature)		_____ (Printed Name of Seller or Seller's authorized representative)		_____ (Date)	
<i>I acknowledge receipt of the Warranty and Disclosure for the purchase of a used manufactured home.</i>					
_____ (Consumer/Purchaser's Signature)		_____ (Printed Name of Consumer/Purchaser)		_____ (Date)	



**Figure: 10 TAC §80.100(b)(12)**

**Texas Department of Housing and Community Affairs**

**MANUFACTURED HOUSING DIVISION**

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<b>RETAIL MONITORING CHECKLIST</b>
------------------------------------

In accordance with Tex. Occ. Code Chapter 1201 (the "Standards Act") and Title 10 Texas Administrative Code, Subchapter C of Chapter 80, for each, manufactured home that is sold or transferred to one or more consumers by sale, exchange, or lease purchase, the retailer must maintain a file with this checklist on top and, as applicable, each of the following documents, executed and dated:

- ☐ All the loan documents were given at least 24 hours prior to execution of the loan documents. If the consumer(s) waived or modified the right to these advance copies, a copy of their written waiver.
- ☐ The disclosure required by Section 162 of the Standards Act.
- ☐ The Texas Retail Installment Contract and Security Agreement or other applicable sale agreement (not required real estate transactions where the home being sold has ALREADY been converted to real property) and, if applicable, any financing agreement if financing was provided or arranged by the retailer.
- ☐ If the retailer was responsible for any disclosures under the Federal Truth in Lending Act, Federal Reserve Regulation Z, the Real Estate Settlement Procedures Act, or HUD Regulation X, copies of such disclosures
- ☐ The Retailer Broker Disclosure Statement
- ☐ Cash Receipts to Support Down Payment.
- ☐ A complete list of all alterations with DAPIA Approval on file (if any).
- ☐ Notice of Air Conditioning Installation.
- ☐ The Formaldehyde Notice (Health Notice).
- ☐ The Wind Zone Notice
- ☐ Used homes only -- Habitability Warranty and disclosure of Condition
- ☐ The Notice of Installation (required on all new homes and, on used homes, if installation is provided)
- ☐ The Manufacturer's New Home Warranty was delivered to the Consumer (New Home Only).
- ☐ Documentation that any required Installation Warranty was delivered to the Consumer (New and Used Homes) and a copy of the warranty.
- ☐ The date that the Manufactured Home information card was mailed to the Manufacturer (New Home Only).

**Figure: 10 TAC §80.100(b)(13)**

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## **CONSUMERS**

THIS LOCATION IS LICENSED AND BONDED UNDER THE TEXAS MANUFACTURED HOUSING STANDARDS ACT (TEX. OCC. CODE, CHAPTER 1201) AS A RETAIL LOCATION. THE RETAILER'S LICENSE AND THE LICENSE OF EACH SALESPERSON WORKING AT THIS SITE ARE AVAILABLE FOR INSPECTION.

TO CONTACT THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, MANUFACTURED HOUSING DIVISION, THE GOVERNMENT AGENCY THAT REGULATES RETAIL MANUFACTURED HOME SALES . . . CALL **1-800-500-7074** OR GO TO

**[WWW.TDHCA.STATE.TX.US/MH](http://WWW.TDHCA.STATE.TX.US/MH)**

**Figure: 10 TAC §80.100(b)(14)**

Texas Department of Housing and Community Affairs

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**NOTICE AND INFORMED CONSENT TO  
INSTALLATION ON IMPROPERLY PREPARED SITE**

Consumer: \_\_\_\_\_

RE: Site Location

Before installing your manufactured home on your site as requested, a visual inspection of the site was performed, and the following problems (as checked) were observed:

**[ ] The site has evidence of ponding**

Ponding is where water collects and does not drain properly. It can cause a variety of problems including, but not limited to, reducing the load bearing capacity of soil and allowing piers or other parts of the foundations system to sink; reducing the ability of anchors to hold the home firmly; and causing moisture build up under the home and possibly in the home.

**[ ] The site has evidence of runoff under heavy rains**

Runoff is where the slope of the home site and/or the land around the home site have slope and/or other conditions, such as gullies and ditches, in which rains trigger rapid build up of quickly flowing streams. Such rapidly flowing water may erode and/or damage the stabilization system for your home and possibly cause other damage.

**[ ] The site has evidence of bare uncompacted soil**

Bare uncompacted soil is subject to compression and rapid settlement when anything heavy, such as a manufactured home is placed on it. Because a manufactured home must be installed in accordance with the applicable instructions, a site with bare uncompacted soil may require a greater number of piers than was originally planned. It may also necessitate the use of other anchoring devices than were originally planned. These things may increase the cost of your installation. Even with such additional measures, bare uncompacted soil may lead to rapid settlement and other problems with your home.

If you elect to proceed with the installation of your home on this site without correcting these conditions, **you accept these risks.** Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name(print or type)

\_\_\_\_\_  
Name(print or type)

Figure: 10 TAC §80.100(b)(15)

IMPORTANT HEALTH NOTICE	
<p>SOME OF THE BUILDING MATERIALS USED IN THIS HOME EMIT FORMALDEHYDE. EYE, NOSE AND THROAT IRRITATION, HEADACHE, NAUSEA, AND A VARIETY OF ASTHMA-LIKE SYMPTOMS, INCLUDING SHORTNESS OF BREATH, HAVE BEEN REPORTED AS A RESULT OF FORMALDEHYDE EXPOSURE. ELDERLY PERSONS AND YOUNG CHILDREN, AS WELL AS ANYONE WITH A HISTORY OF ASTHMA, ALLERGIES, OR LUNG PROBLEMS, MAY BE AT GREATER RISK. RESEARCH IS CONTINUING ON THE POSSIBLE LONG-TERM EFFECTS OF EXPOSURE TO FORMALDEHYDE.</p>	
<p>REDUCED VENTILATION RESULTING FROM ENERGY EFFICIENCY STANDARDS MAY ALLOW FORMALDEHYDE AND OTHER CONTAMINANTS TO ACCUMULATE IN THE INDOOR AIR. ADDITIONAL VENTILATION TO DILUTE THE INDOOR AIR MAY BE OBTAINED FROM A PASSIVE OR MECHANICAL VENTILATION SYSTEM OFFERED BY THE MANUFACTURER. CONSULT YOUR DEALER FOR INFORMATION ABOUT THE VENTILATION OPTIONS OFFERED WITH THIS HOME.</p>	
<p>HIGH INDOOR TEMPERATURES AND HUMIDITY RAISE FORMALDEHYDE LEVELS. WHEN A HOME IS TO BE LOCATED IN AREAS SUBJECT TO EXTREME SUMMER TEMPERATURES, AN AIR CONDITIONING SYSTEM CAN BE USED TO CONTROL INDOOR TEMPERATURE LEVELS. CHECK THE COMFORT COOLING CERTIFICATE TO DETERMINE IF THIS HOME HAS BEEN EQUIPPED OR DESIGNED FOR THE INSTALLATION OF AN AIR-CONDITIONING SYSTEM.</p>	
<p>IF YOU HAVE ANY QUESTIONS REGARDING THE HEALTH EFFECTS OF FORMALDEHYDE, CONSULT YOUR DOCTOR OR LOCAL HEALTH DEPARTMENT.</p>	
DATE: _____	<p>I (WE) CERTIFY THAT THIS IMPORTANT HEALTH NOTICE WAS PROMINENTLY DISPLAYED IN THE KITCHEN OF THE MANUFACTURED HOME BEING PURCHASED, THAT THE NOTICE WAS LEGIBLE AND PRINTED USING LETTERS AT LEAST ¼ INCH IN SIZE WITH THE TITLE IN RED USING LETTERS AT LEAST ¾ INCH IN SIZE, AND FURTHER THAT THIS NOTICE WAS GIVEN TO ME (US) ON THE DATE SHOWN AND PRIOR TO THE SIGNING OF ANY BINDING AGREEMENT. I (WE) HAVE READ THE NOTICE AND UNDERSTAND IT.</p> <p>_____ (signature, prospective purchaser)</p> <p>_____ (printed name of prospective purchaser)</p> <p>_____ (signature, prospective purchaser)</p> <p>_____ (printed name of prospective purchaser)</p> <p>_____ (purchaser address)</p> <p>_____ (city, state, zip)</p>
_____ (printed name of retailer)	
_____ (printed retailer address)	
_____ (city, state zip)	
_____ (printed name of manufacturer)	
_____ (address of manufacturer)	
_____ (HUD Label #(s))	
_____ (Serial Number(s))	

**Figure: 10 TAC §80.100(b)(16)**

Texas Department of Housing and Community Affairs

**MANUFACTURED HOUSING DIVISION**

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(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

**TEXAS INVENTORY FINANCE SECURITY FORM**

The undersigned retailer and creditor-lender have executed a separate security agreement which sets forth the rights and obligations of the two parties in the inventory finance agreement.

This inventory finance security form only applies to the single retail location set forth below. The filing of the inventory finance security form with the Texas Department of Housing and Community Affairs perfects the security interest in all manufactured homes which have been financed by the creditor-lender or for which the creditor-lender has advanced any funds or has incurred any obligation which enabled the retailer to acquire the manufactured home. The filing of the inventory-finance security form also perfects a security interest in all manufactured homes which are hereafter acquired by the retailer for which the creditor-lender has advanced any funds or the incurrence of the obligation, and the creditor-lender is not required to file additional inventory finance security forms.

No provision in the security agreement between the parties to an inventory financing arrangement shall in any way modify, change or supersede the requirements of the rules of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs for the perfection of security interest in the manufactured homes which are in the inventory of a retailer.

Name of Retail Business		TDHCA License #	
Location	City	State	Zip

Signature of Retail Business Agent: \_\_\_\_\_

Name of Creditor-Lender			
Location	City	State	Zip

Signature of Creditor-Lender Agent: \_\_\_\_\_

THE SEPARATE SECURITY AGREEMENT IS DATED: \_\_\_\_\_

THIS FORM IS DATED: \_\_\_\_\_

**Figure: 10 TAC §80.100(b)(17)**

Texas Department of Housing and Community Affairs  
MANUFACTURED HOUSING DIVISION  
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Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>Broker Disclosure Form</b>
-------------------------------

Broker name: \_\_\_\_\_  
License number: \_\_\_\_\_

In connection with the offer, sale, exchange, or lease-purchase of:

***Check one***

☐ the following manufactured home:

label or seal number:  
serial number:  
address:

☐ one or more manufactured homes to be identified

☐ other (describe)

The undersigned represents:

***Check all that apply***

☐ the buyer

☐ the seller *If a broker represents a seller, the seller must either hold a retailer's license or be exempt from licensing as a retailer*

☐ no one

☐ other (describe)

Figure: 10 TAC §80.100(b)(18)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489  
(800) 500-7074, (512) 475-2200 FAX (512) 475-3506

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

**NOTICE OF INSTALLATION (FORM T)**

**HUD Label or Texas Seal # (s):** \_\_\_\_\_ **Serial # (s):** \_\_\_\_\_

**Manufacturer Name:** \_\_\_\_\_ **License No.** \_\_\_\_\_

**Home Size - Width / Length:** \_\_\_\_\_ X \_\_\_\_\_ **Weight** \_\_\_\_\_ **Date of Manufacture:** \_\_\_\_/\_\_\_\_/\_\_\_\_ **Model / Name:** \_\_\_\_\_

**Draw A Map To Provide Directions To Home On Page 2**

**Consumer:** \_\_\_\_\_ **Phone Numbers: Home:** (\_\_\_\_) \_\_\_\_\_ **Work:** (\_\_\_\_) \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**Site Address:** \_\_\_\_\_ **Within City Limits of** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**County Where Home is Installed:** \_\_\_\_\_ **Installation Decal#:** \_\_\_\_\_

**Actual Installation Date:** \_\_\_\_/\_\_\_\_/\_\_\_\_ **Wind Zone on Data Plate: I** (\_\_\_\_) **II** (\_\_\_\_) **III** (\_\_\_\_)

**Is the home installed in a Humid & Fringe Climate** Yes (\_\_\_\_) No (\_\_\_\_) **Was the home labeled for alternate construction.** Yes (\_\_\_\_) No (\_\_\_\_)

	Name	Address	License #	Expiration Date	Phone #
Retailer					
Installer					

(\_\_\_\_) New (\_\_\_\_) Used **Does retailer or installer provide skirting?** Yes (\_\_\_\_) No (\_\_\_\_)

**Is installation part of sales contract of used home?** Yes (\_\_\_\_) No (\_\_\_\_) Not Applicable (\_\_\_\_)

**The home has been installed in accordance with:**

- (\_\_\_\_) 1. Manufacturer's Home Installation Instructions (provide page number or option \_\_\_\_\_).
- (\_\_\_\_) 2. State Generic Standards - Title 10 Texas Administrative Code (10 TAC) §§80.55, 56, 57, 58, and 59.
- (\_\_\_\_) 3. A stabilization system registered with the Department in accordance with 10 TAC §80.62 - provide name of system or reference to MHD Approval Letter or registration \_\_\_\_\_.
- (\_\_\_\_) 4. A Special Foundation System (attach a copy of the drawing for this system and provide a reference, if applicable, to any drawing previously submitted).

**IF NO METHOD IS CHECKED, IT WILL BE PRESUMED THAT OPTION 2  
(STATE GENERIC STANDARDS) WAS USED.**

To be submitted to the Department along with the required fee no later than the 15<sup>th</sup> day of the month after which the installation is completed. The Installation Report (Form T) should no longer be submitted with the title documents.

---

I verify that I am a licensed installer, that I am responsible for the installation described, and that the information supplied is true and correct. Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

Signature (Retailer/Installer)

---

Name (print or type)

**DRAW MAP BELOW**





**Figure: 10 TAC §80.100(b)(19)**

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-3506

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>INSTALLATION DECAL REQUEST FORM</b>
----------------------------------------

*Please issue \_\_\_\_ (number) installation decals for new or used housing units to:*

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_, State: \_\_\_\_\_, Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_, Fax No.: \_\_\_\_\_

Installer's License Number: \_\_\_\_\_

I hereby certify that these decals will be applied as stipulated by the rules and regulations adopted and amended periodically by the TDHCA / Manufactured Housing Division. Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Name (print or type)**

\_\_\_\_\_  
**Title**

**Figure: 10 TAC §80.100(b)(20)**

**Texas Department of Housing and Community Affairs**

**MANUFACTURED HOUSING DIVISION**

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(800) 500-7074, (512) 475-2200 FAX (512) 475-3506  
Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

<b>INSTALLATION CHECKLIST</b>
-------------------------------

Home HUD label or Texas seal number: \_\_\_\_\_

Date of installation: \_\_\_\_\_

WZ: \_\_\_\_\_

Humid/fringe status: \_\_\_\_\_

Method of installation – if a copy is not included because the installation was done to a method that the licensed installer uses from time to time, where is a copy of the actual methods in the installer's records?

- SITE PREPARATION
- LOAD BEARING CAPACITY OF SOIL
- SPACING OF PIERS (IF APPLICABLE)
- SPACING OF ANCHORS (IF APPLICABLE)
- NUMBER OF DIAGONAL TIES (IF APPLICABLE)
- LIST OF EACH DEVICE USED
- VAPOR RETARDER REQUIRED?

**Was the installer contracting directly with the consumer or were they subcontracted by another retailer or installer? Attach a copy of each contract.**

Attach a list of each person who worked on the installation and how to contact them.

If A/C was provided, name and license number of A/C installer: \_\_\_\_\_

Copy of any required move permits.

Figure: 10 TAC §80.100(b)(21)

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## Estimate for Reassigned Warranty Work

### Part I – Labor and Materials:

**For each item on the inspection report, provide the information requested.**

1) Description of proposed correction: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Estimated time: \_\_\_\_\_ Hourly rate: \_\_\_\_\_

Itemized cost of materials: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

2) Description of proposed correction: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Estimated time: \_\_\_\_\_ Hourly rate: \_\_\_\_\_

Itemized cost of materials: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

3) Description of proposed correction: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Estimated time: \_\_\_\_\_ Hourly rate: \_\_\_\_\_

Itemized cost of materials: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## Part II – Other Costs and Expenses

<b>Block 1: Travel</b>	
Starting location, which must be within the State of Texas and is to be the closer of the nearest office to the site of the re-assigned warranty work or the in-state service center for the licensee.	
	<b>Starting location:</b>
Mileage is reimbursable at the greater of the rate of \$0.35 per mile, not to exceed \$75.00 per day, or the State of Texas approved rates from time to time in effect for reimbursement of state employees' travel expenses.	
	<b>Estimated round-trip mileage:</b>
<b>Itemized list of any other travel costs:</b>	

<b>Block 2: Lodging</b>	
Reimbursement for overnight lodging is to include the actual room rate and any applicable taxes but does not include any long distance telephone calls, entertainment, food, or beverages. Reimbursement may not exceed the State of Texas approved rates for reimbursement of state employees' lodging.	
	<b>Name, location, and rate:</b>

<b>Block 3: Meals</b>	
Reimbursement for meals (receipts are required) shall not exceed the greater of \$25.00 per day or the State of Texas approved rate for reimbursement of state employees' meals while traveling. Alcoholic beverages are not subject to reimbursement.	
	<b>Estimated cost of meals:</b>

<b>Block 4: Administrative and oversight costs</b>	
Administrative services may not exceed 20% of the total estimate. Provide an explanation of the necessary administrative services, including the number of hours required and the hourly rate of each person providing such services:	

## Part III – Certification

The undersigned represents that:

- (1) the actual costs for labor charged to the Texas Department of Housing and Community Affairs, Manufactured Housing Division and/or the Manufactured Homeowner's Recovery Trust Fund will not exceed the actual number of hours expended, rounded to the nearest quarter of an hour increment, times the hourly rate specified above;
- (2) the actual costs for materials charged to Texas Department of Housing and Community Affairs, Manufactured Housing Division and/or the Manufactured Homeowner's Recovery Trust Fund will not exceed the costs actually charged to the undersigned and such costs do not exceed the costs at which the undersigned is able to obtain such materials for its own account;
- (3) the hourly rate being charged by the undersigned does not exceed the normal hourly rate at which the specified individuals customarily provide their services; and
- (4) if the work to be performed involves any repair or alteration that would require DAPIA approval, such approval will be obtained and a copy of such approval, together with all DAPIA-approved drawings relating thereto, will be submitted when reimbursement is requested.

Name of Licensee: \_\_\_\_\_ This estimate executed this \_\_\_\_ day of \_\_\_\_\_,

License number: \_\_\_\_\_

\_\_\_\_\_  
Signature of licensee or duly authorized  
Officer or representative

\_\_\_\_\_  
Printed name of licensee or duly authorized  
officer or representative

Figure: 10 TAC §80.100(b)(22)

Texas Department of Housing and Community Affairs

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**APPLICATION FOR STATEMENT OF OWNERSHIP AND LOCATION**

The filing of an application for the issuance of a Statement of Ownership and Location, later than sixty (60) days after the date of a sale to a consumer for residential use, may result in a fee of up to one hundred dollars (\$100). Any such application that is submitted late may be delayed until the fee is paid in full.

<b>BLOCK 1: Transaction Identification</b>					
This application is for: <input type="checkbox"/> New home application <input type="checkbox"/> Used home application <input type="checkbox"/> Other _____			(For Department Use Only) Coding:  Lien on file: Y / N      Lienholder Code County Code:              Right of Surv.: Y / N Retailer #:                  Manufacturer #:		
<b>BLOCK 2: Home Information (required)</b>					
Manufacturer Name:				Model:	
Address:				Date of Manufacture:	
City, State, Zip:				Total Square Feet:	
License Number:				Wind Zone:	
	Label/Seal Number	Complete Serial Number	Weight	Size *	<i>*NOTE: Size must be reported as the outside dimensions (length and width) of the home as measured to the nearest 1/2 foot at the base of the home, exclusive of the tongue or other towing device.</i>
Section 1:				X	
Section 2:				X	
Section 3:				X	
Section 4:				X	
<input type="checkbox"/>	Check here if there is/are no HUD Label(s) or Texas Seal(s) on your home. To issue the SOL, a Texas Seal will be issued to each section of your home at an additional cost of \$35.00 per section.      Single - \$35    Double - \$70    Triple - \$105				
<b>BLOCK 3: Home Location (required)</b>					
Physical Location of Home: (or 911 address)		Physical Address (cannot be a Rt. or P. O. Box)			
		City	State	ZIP	County
Was home moved for this sale? <input type="checkbox"/> No <input type="checkbox"/> Yes					
Was Home Installed for this sale? <input type="checkbox"/> No <input type="checkbox"/> Yes    If yes, provide installer information below, if known					
Installer Name, address and phone:					
<b>BLOCK 4: Ownership Information (required)</b>					
<b>(4a) Seller(s) or Transferor(s)</b>			<b>(4b) Purchaser(s), Transferee(s), or Owner(s)</b>		
Name		License # if Retailer:	Name		License # if Retailer:
Name			Name		
Mailing Address			Mailing Address		
City/State/Zip			City/State/Zip		
Daytime Phone Number ( ) -			Daytime Phone Number ( ) -		
Date of sale, transfer or ownership change:					
<b>BLOCK 5: Right of Survivorship (if no box is checked, joint owners will NOT have right of survivorship)</b>					
If joint owners desire right of survivorship, check the applicable box below:					
<input type="checkbox"/> Husband and wife will be the only owners and agree that the ownership of the above described manufactured home shall, from this day forward, be held jointly and in the event of death, shall pass to the surviving owner.					
<input type="checkbox"/> Joint owners are other than husband and wife, desire right of survivorship, and have attached a completed Affidavit of Fact for Right of Survivorship or other affidavits as necessary to meet the requirements of §1201.213 of the Standards Act.					

<b>BLOCK 6: Personal/Real Property Election - Purchaser(s)/Transferee(s)/Owner(s) check one election type:</b>	
<input type="checkbox"/> Personal Property – Applicant elects to treat this home as personal property. All documents affecting title to the home will be filed in the records of the Department.	
<input type="checkbox"/> Real Property – I (we) elect to treat this home as real property and certify that I am (we are) entitled to make this election in accordance with Section 1201.2055 of the Occupations Code because <b>(one box must be checked)</b> : <input type="checkbox"/> I (we) own the real property that the home is attached to. <input type="checkbox"/> I (we) have a qualifying long-term lease for the land that the home is attached to.	
I (We) understand that the home will not be considered to be real property until a certified copy of the SOL has been filed in the real property records of the county in which the home is located AND a copy stamped "Filed" has been submitted to the Department. <b>Legal description must be provided for real property:</b>   	
If a title company, list your file or GF #: _____	
<input type="checkbox"/> Inventory – Retailer number must be provided in Block 4b. <b>(FOR RETAILER USE ONLY)</b>	
<b>BLOCK 7: Designated Use - to be designated by purchaser(s), transferee(s), or owner(s)</b>	
<input type="checkbox"/> Residential Use (as a dwelling) OR <input type="checkbox"/> Non-Residential - Check <b>one</b> of the following: <input type="checkbox"/> Business Use <input type="checkbox"/> Salvage	
<b>BLOCK 8: Liens - Specify any liens (other than tax liens), charges, or other encumbrances to be recorded on the SOL</b>	
Date of First Lien: _____ Name of First Lienholder: _____ Mailing Address: _____ City/State/ZIP: _____ Daytime Phone Number: (     )     -     _____	Date of Second Lien: _____ Name of Second Lienholder: _____ Mailing Address: _____ City/State/ZIP: _____ Daytime Phone Number: (     )     -     _____
<b>BLOCK 9: Special Mailing Instructions.</b>	
<b>IF</b> a copy of an SOL is to be mailed to anyone other than the owner or lienholder of record (such as a closing agent), please provide that mailing address here and enclose the additional fee.	Name: _____ Company: _____ Street Address: _____ City, State, Zip: _____ Area Code/Phone: _____
<b>BLOCK 10: Certification and Notarization - The statements set forth herein are made under oath and are true and correct.</b>	
<input type="checkbox"/> Seller certifies that any required habitability warranty has been delivered (consumer to consumer sales are exempt). <input type="checkbox"/> Seller certifies that the purchaser has been given a written disclosure on a form prescribed by the Department describing the condition of the home and of any appliances that are included in the home.	
<b>(10a) Notarized signature of each seller/transferor</b>  _____ <i>Signature of seller/transferor</i>  Sworn and subscribed before me this ____ day of _____, 20__  _____ <i>Signature of Notary</i>  SEAL	<b>(10b) Notarized signature of each purchaser/transferee or owner</b>  _____ <i>Signature of purchaser/transferee or owner</i>  Sworn and subscribed before me this ____ day of _____, 20__  _____ <i>Signature of Notary</i>  SEAL
_____ <i>Signature of seller/transferor</i>  Sworn and subscribed before me this ____ day of _____, 20__  _____ <i>Signature of Notary</i>  SEAL	_____ <i>Signature of purchaser/transferee or owner</i>  Sworn and subscribed before me this ____ day of _____, 20__  _____ <i>Signature of Notary</i>  SEAL

Figure: 10 TAC §80.100(b)(23)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

**APPLICATION FOR CORRECTION TO  
STATEMENT OF OWNERSHIP AND LOCATION**

**BLOCK 1: Transaction Identification**

This application is to:

- ☐ Correct an error made by the Department – Complete Blocks 2, and 3
- ☐ Correct an error made by the applicant, which requires a transaction fee – Complete Blocks 2 and 4.

**(For Department Use Only) Coding:**

DEPT ERROR

CORR

**BLOCK 2: Home Information**

	<i>Label/Seal Number</i>	<i>Serial Number</i>
Section 1:		
Section 2:		
Section 3:		
Section 4:		

**BLOCK 3: For Departmental Errors**

Explain error:

Mail corrected SOL to address on file for:	Owner(s) of record	Lienholder of record	Alternate address below:
--------------------------------------------	--------------------	----------------------	--------------------------

**BLOCK 4: For Paid Correction (error made by the applicant)**

Explain error:

**BLOCK 5: Where to send correction.**

Name	
Company:	
Street Address:	
City, State, Zip	
Area Code/Phone	

<b>BLOCK 6: Certification and Notarization - The statements set forth herein are made under oath and are true and correct.</b>	
<input type="checkbox"/> Seller certifies that any required habitability warranty has been delivered (consumer to consumer sales are exempt). <input type="checkbox"/> Seller certifies that the purchaser has been given a written disclosure on a form prescribed by the Department describing the condition of the home and of any appliances that are included in the home.	
<b>(6a) Notarized signature of each seller/transferor</b>	<b>(6b) Notarized signature of each purchaser/transferee or owner</b>
_____ <i>Signature of seller/transferor</i>  Sworn and subscribed before me this ____ day of _____, 20____  _____ <i>Signature of Notary</i>  SEAL	_____ <i>Signature of purchaser/transferee or owner</i>  Sworn and subscribed before me this ____ day of _____, 20____  _____ <i>Signature of Notary</i>  SEAL
_____ <i>Signature of seller/transferor</i>  Sworn and subscribed before me this ____ day of _____, 20____  _____ <i>Signature of Notary</i>  SEAL	_____ <i>Signature of purchaser/transferee or owner</i>  Sworn and subscribed before me this ____ day of _____, 20____  _____ <i>Signature of Notary</i>  SEAL



Figure: 10 TAC §80.100(b)(24)

Texas Department of Housing and Community Affairs

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**Ownership and Location Affidavit of Fact**  
(Sworn Statement)

**BLOCK 1: Home Information**

Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_  
Serial Number: \_\_\_\_\_ Label # and/or Seal #: \_\_\_\_\_  
Square Footage: \_\_\_\_\_ Size: \_\_\_\_\_

**BLOCK 2: Statement of Facts**

*Please provide a sworn statement in the space below identifying the history of the home as you know it. Include all names of previous owners, complete address and phone numbers of the previous owner, cities where previously located, how and when you acquired the home, amount of purchase, bill of sale or other contracts and any other information on the home you may feel is important. Use the space below or on the back to provide a sworn statement.*

**BLOCK 3: Signatures (Notarization is REQUIRED)**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

Before me personally appeared the person(s) whose signature(s) appear above, who by being sworn, upon oath, say that the statements set forth hereinabove are true and correct. Subscribed and sworn before me this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
(Name of Notary)

\_\_\_\_\_  
(Notary Public)

\_\_\_\_\_  
(Commission Expires)

SEAL

Notary Public State of Texas

Figure: 10 TAC §80.100(b)(25)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

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OWNERSHIP AND LOCATION AFFIDAVIT OF ERROR (Sworn Statement)	
<b>BLOCK 1: Home Information</b>	
Manufacturer: _____	Model: _____
Serial Number: _____	Label # and/or Seal #: _____
Square Footage: _____	Size: _____
<b>BLOCK 2: Statement of Error</b>	
<i>Please provide a sworn statement in the space below of the error made on the Statement of Ownership and Location Application. Please specify which document the error was made on and the exact nature of the error. Use the space below or on the back to provide a sworn statement.</i>	
<b>BLOCK 3: Signatures (Notarization is REQUIRED)</b>	
_____	
(Signature)	
_____	
(Signature)	
Before me personally appeared the person (s) whose signature (s) appear above, who by being sworn, upon oath, say that the statements set forth hereinabove are true and correct. Subscribed and sworn before me this day of _____ 20 ____.	
_____	
(Name of Notary)	
_____	
(Notary Public)	
_____	
(Commission Expires)	Notary Public State of Texas
SEAL	

**Figure: 10 TAC §80.100(b)(26)**

**Texas Department of Housing and Community Affairs**

**MANUFACTURED HOUSING DIVISION**

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AFFIDAVIT OF FACT				
FOR RIGHT OF SURVIVORSHIP OWNERSHIP AGREEMENT				
BLOCK 1: Home Information (Must be completed)				
Manufacturer Name:		City/State/Zip:		License #:
Manufacturer Address:				
Model :	Total Sq. Ft.:	Date of Manufacture:		
Label/Seal Number	Complete Serial Number	Weight	Size	
Section One:				
Section Two:				
Section Three:				
BLOCK 2: Type of Mutual Agreement				
The relationship that exists between the undersigned can be defined as (check one):				
<input type="checkbox"/> Legally married (If this box is checked, complete Block 6 only)				
<input type="checkbox"/> Common Law marriage (If this box is checked, complete Block 3 and Block 6)				
<input type="checkbox"/> Co-owners are unmarried (If this box is checked, complete Block 4 and Block 6)				
<input type="checkbox"/> Co-owners are married but not to each other (If this box is checked, complete Block 5 and Block 6)				
BLOCK 3: Attestation of Common Law Marriage				
We, the undersigned, acknowledge and affirm that we are married by common law to each other and that any previous marriage(s) legal or common law, between any of the undersigned and other party(ies) was legally terminated by a spouse in death or by a legal divorce.				
Signature of Co-owner		Date	Signature of Co-owner Date	
BLOCK 4: Attestation of Unmarried Status				
I, the undersigned, acknowledge and affirm that I am not married, legally or by common law marriage.				
Signature of Co-owner		Date	Signature of Co-owner Date	
BLOCK 5: Attestation of Separate Property By the Undersigned Spouse				
<b>Spouse #1</b>				
In order to establish right of survivorship between the co-owners of said manufactured home, I, _____ the spouse of _____, do hereby acknowledge and attest that any and all property rights and interests in the above referenced manufactured home is the separate property of the co-owners exclusively.				
Signature of spouse #1: _____		Date: _____		
<b>Spouse #2</b>				
In order to establish right of survivorship between the co-owners of said manufactured home, I, _____ the spouse of _____, do hereby acknowledge and attest that any and all property rights and interests in the above referenced manufactured home is the separate property of the co-owners exclusively.				
Signature of spouse #2: _____		Date: _____		
BLOCK 6: Signatures of Co-Owners				
NOTARIZATION REQUIRED				
We, the undersigned, hereby agree that the ownership of the above described manufactured home shall, from this day forward, be held jointly and in the event of death, shall pass to the surviving owner(s).				
Signature of Co-owner		Date	Signature of Co-owner Date	
Before me personally appeared the person (s) whose signature (s) appear above, who by being sworn, upon oath, say that the statements set forth hereinabove are true and correct. Subscribed and sworn before me this _____ day of _____ 20____				
_____ (Notary Public)		SEAL		
_____ (Commission Expires)		Notary Public State of Texas		

Form: Affidavit of Fact for Right of Survivorship

Form Page 1 of 1

**Figure: 10 TAC §80.100(b)(27)**

Texas Department of Housing and Community Affairs

## MANUFACTURED HOUSING DIVISION

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***Affidavit of Fact  
(Sworn Statement)***

## **BLOCK 1: Home Information**

[illegible]

## BLOCK 2: Statement of Facts

Being first duly sworn, I hereby state to the Manufactured Housing Division of the Texas Department of Housing and Community Affairs as follows:

In connection with my application for a Statement of Ownership and Location for the above-described manufactured home, I hereby provide the following information as an addendum to my application:

(Provide the information checked below.)

- 1. \_\_\_\_\_ Physical address is:** \_\_\_\_\_  
*(cannot be a Rt. or P.O. Box)      Address                  City                  State                  ZIP                  County*

- 2. \_\_\_\_\_ Purchaser's mailing address is:** \_\_\_\_\_  
*Address City State ZIP County*

3. \_\_\_\_\_ Seller's mailing address is: \_\_\_\_\_  
                                                 Address                                      City                                      State                                      ZIP                                      County

- 4. \_\_\_\_\_Lien Information** – The personal property lien section of the application was completed in error.

5. **Designated Use is:** ☐ Residential Use (as a dwelling) OR  
☐ Non-Residential  
If non-residential, specify: ☐ *Business Use* **or** ☐ *Salvage*

- 6. \_\_\_\_\_ Election – I/we elect the home as:**

- [ ] Retailer Inventory

- [ ] Personal Property

- [ ] Real Property (this may only be elected if the owner of the home either owns the real property on which the home is installed or holds a qualifying long term lease on that property). If the real property option is elected the legal description must be provided.

Legal Description: \_\_\_\_\_

**BLOCK 3: Signatures (Notarization is REQUIRED)**

(Seller's Signature)

(Purchaser's Signature)

(Seller's Signature)

(Purchaser's Signature)

*(Signature of Notary)*

(Commission Expires)  
Notary Public State of Texas

SEAL

Figure: 10 TAC §80.100(b)(28)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

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<b>RELEASE OR FORECLOSURE OF LIEN</b> (This form is not to be used for tax liens. Please type or print clearly.)				
<b>FORM B</b>				
<b>BLOCK 1: Home Information (Must be completed)</b>				
Manufacturer Name:			License #:	
Manufacturer Address:				
Model :		Total Sq. Ft.:	Date of Manufacture:	
Label/Seal Number	Complete Serial Number		Weight	Size
Section One:				
Section Two:				
Section Three:				
<b>BLOCK 2: For Release of Liens</b>				
(Name of Lienholder)		(Address)	(City)	(State) (Zip) (Phone)
(Name of Consumer)		(Address)	(City)	(State) (Zip) (Phone)
Release of Lien Effective Date:				
<b>BLOCK 3: For Foreclosure of Lien</b>				
Date of Repossession:		Release of Lien Effective Date:		
<b>Method of Repossession (MUST CHECK ONE):</b>				
<input type="checkbox"/> Terms of Security (Lien) Agreement				
<input type="checkbox"/> Judicial Order (Sequestration, Possessory Lien, etc.) If by judicial order, attach a copy of the Sheriff's Bill of Sale. If the lien was not recorded on the document of title, a COPY of the <u>Security Agreement</u> or <u>Judicial Order</u> must be attached.				
<b>BLOCK 4: Sale of Foreclosed Manufactured Home</b> <b>MUST be completed IF foreclosure is being recorded</b>				
<b>Method of Sale (MUST CHECK ONE):</b>				
<input type="checkbox"/> I (We) will sell the home to or through a licensed retailer.				
<input type="checkbox"/> I (We) will sell the home directly to a consumer and have the required retailer license.				
<input type="checkbox"/> I (We) will sell the home directly to a consumer and I am (We are) not required to be licensed as a retailer under Subchapter C of the Standards Act.				
If either of the first two items above is checked and this form is submitted in conjunction with an application to record the sale of the manufactured home, the name and license number of the retailer must be provided here: R-_____.				
<b>BLOCK 5: Notarized Signature Required</b>				
I (We) certify that the statements set forth hereinabove and the information attached hereto are true and correct.		Sworn and subscribed before me this _____ day of _____, 20____ (month) (year)		
_____ (Signature of Person Authorized to Sign for Lienholder)		_____ (Signature of Notary)		
(Title of Person Signing) (Phone)		Seal (Typed Name of Notary) (Date Commission Expires)		

Figure: 10 TAC §80.100(b)(29)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

P. O. BOX 12489 Austin, Texas 78711-2489

(800) 500-7074, (512) 475-2200 FAX (512) 475-1109

Internet Address: [www.tdhca.state.tx.us/mh/index.htm](http://www.tdhca.state.tx.us/mh/index.htm)

STATEMENT OF INHERITANCE (Please type or print clearly.)				
FORM C				
<b>BLOCK 1: Home Information (Must be completed.)</b>				
Manufacturer Name and Address: _____				
Model: _____	Total Sq. Ft.: _____	Date of Manufacture: ____ / ____ / ____		
Label/Seal Number		Complete Serial Number	Weight	Size
Section One: _____		_____	_____	_____
Section Two: _____		_____	_____	_____
Section Three: _____		_____	_____	_____
<b>BLOCK 2: Affidavit of Heirship</b>				
<p><b>BEFORE ME</b>, the undersigned authority, on this day personally appeared all the undersigned heirs, who having been by me duly sworn, on oath, each for himself and herself, deposes and say that _____, the registered owner of the above described manufactured home died on ____ day of _____, A.D. _____, at _____, in the County of _____, and State of _____; the deceased left no will; that no application for administration has been filed; that there is no necessity for an administration upon the estate; that heirs herein are the sole and only heirs at law of the deceased and are, therefore, authorized under the law to sell, transfer and assign the title to said manufactured home as described above; that there are no other heirs who have prior right to the estate of the deceased, <u>and it is the desire of all undersigned that title to the above described manufactured home be issued to:</u></p> <p>_____ First Name Last Name First Name Last Name</p>				
<b>BLOCK 3: Signatures (Notarization is REQUIRED)</b>				
I (We) certify that the statements set forth herein above and the information attached hereto are true and correct.				
<div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><p>_____ (Signature of Heir)</p><p>Sworn and subscribed before me this ____ day of ____ (month) ____ (year)</p><p>_____ (Signature of Notary)</p></div><div style="width: 45%; text-align: center;"><p>_____ (Signature of Heir)</p><p><b>SEAL</b></p></div></div>				
<div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><p>_____ (Signature of Heir)</p><p>Sworn and subscribed before me this ____ day of ____ (month) ____ (year)</p><p>_____ (Signature of Notary)</p></div><div style="width: 45%; text-align: center;"><p>_____ (Signature of Heir)</p><p><b>SEAL</b></p></div></div>				
<div style="display: flex; justify-content: space-between;"><div style="width: 45%;"><p>_____ (Signature of Heir)</p><p>Sworn and subscribed before me this ____ day of ____ (month) ____ (year)</p><p>_____ (Signature of Notary)</p></div><div style="width: 45%; text-align: center;"><p>_____ (Signature of Heir)</p><p><b>SEAL</b></p></div></div>				
<p><i>If there are additional heirs, please attach an additional Form C with notarized signature(s).</i></p>				

Figure: 10 TAC §80.100(b)(30)

Texas Department of Housing and Community Affairs

MANUFACTURED HOUSING DIVISION

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**TAXING ENTITY APPLICATION FOR TEXAS SEAL**

**FORM S**

*Please type or print clearly. Please fill out form completely.*

**BLOCK 1: Home Information (Must be completed.)**

Manufacturer Name:		Year of Manufacture:	
Model:		Date of Seizure:	
	Size (Width X Length)	<b>(Department Use Only)</b> Seal #	
Section One:	X	TXS	
Section Two:	X	TXS	
Section Three:	X	TXS	

**BLOCK 2: Payment Information**

Single Section: \$35	Double Section: \$70	Triple Section: \$105
----------------------	----------------------	-----------------------

Please make cashier's check or money order payable to: **TDHCA**

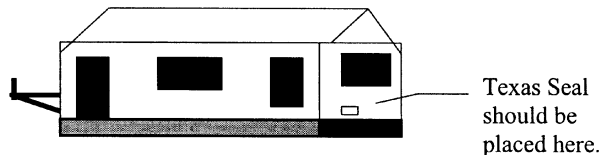
**BLOCK 3: Address Where Seal Is To Be Mailed**

*Please make sure the address below is complete. This form will be returned to you using a window envelope.*

Retailer/Installer License Number (if applicable):	
Name:	Day Phone #: (      )
Mailing Address:	
City/State/Zip:	

**BLOCK 4: Location of Seal on Manufactured Home**

The seal must be placed on the manufactured home after you receive it from this office. If it is a double or triple section home, place the Texas Seal in the same location on each section. Please follow the drawing below for affixing the seal(s) to your home.



**BLOCK 5: Certification**

By signing, I certify to the best of my knowledge that no serial number, HUD Label or Texas Seal can be found on this manufactured home and that the home to which the Texas Seal will be affixed meets the definition of a HUD-Code manufactured home or a mobile home as defined in Chapter 1201 of the Occupations Code (on back). It is understood that the Texas Seal is issued for identification purposes only and may not be construed to imply that the home is habitable or that the purchaser of the home at a tax sale may obtain a title document from the department without an inspection for habitability.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Occupations Code

### § 1201.459. Compliance Not Required for Sale for Collection of Delinquent Taxes

- (a) In selling a manufactured home to collect delinquent taxes, a tax collector is not required to comply with this subchapter or another provision of this chapter relating to the sale of a used manufactured home.
- (b) If the home does not have a serial number, seal, or label, the tax collector may:
  - (1) apply to the department for a seal;
  - (2) pay the applicable fee; and
  - (3) recover that fee as part of the cost of the sale of the home.
- (c) The seal issued to the tax collector is for identification purposes only and does not imply that:
  - (1) the home is habitable; or
  - (2) a purchaser of the home at a tax sale may obtain a document of title from the department without an inspection for habitability.

#### Definitions

"Mobile Home" means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

"HUD-code manufactured home" means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems. The term does not include a recreational vehicle as that term is defined by 24 C.F.R. Section 3282.8(g).



Figure: 10 TAC §80.100(b)(31)

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**FORM M**

*(Please type or print clearly.)*

**IMPORTANT NOTICE!**

**Place this form on top of the SOL application packet**

**This form is required when paying for multiple applications with one check, thereby enabling us to match refunds with applications.**

	HUD #, Seal #, or Serial #	Purchaser / Owner Name(s)	Fee(s) Per Home
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
25.			
26.			

\_\_\_\_\_  
(Payor)  
( ) \_\_\_\_\_ ( ) \_\_\_\_\_ Total Fees: \$ \_\_\_\_\_  
(Phone Number) (Fax Number) (Check Number)

**Figure: 10 TAC §80.100(b)(32)**

Texas Department of Housing and Community Affairs

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<b>INSTRUCTIONS TO THIRD PARTY CLOSER</b>
-------------------------------------------

[On sale of a manufactured home that is personal property at the time of sale, exchange, or lease-purchase but is to be converted to real property]

[Name and address of title company, attorney, or other party closing the transaction]

**Re: Sale, exchange, or lease-purchase of the manufactured home (the "Home") identified by:**

**Texas seal or HUD label number(s):** \_\_\_\_\_

**Serial Number(s):** \_\_\_\_\_

**To:** \_\_\_\_\_ **(the "New Owner")**

Dear Third Party Representative:

The undersigned is licensed as a retailer under the Texas Manufactured Housing Standards Act, Tex. Occ. Code, Chapter 1201 (the "Act") and has entered into an agreement to sell, exchange, or lease-purchase the Home to the New Owner. It is contemplated that in connection with the closing of this transaction, the New Owner will elect to treat the Home as real property in accordance with Section 1201.2055 of the Act. In closing this transaction, you are hereby directed to perform each of the following:

- 1) Obtain the New Owner(s)' signature(s) on the enclosed Application for Statement of Ownership and Location and have it (them) notarized.
- 2) Insert your name and address in Block 9 of the Application for Statement of Ownership and Location as the person and place to which the Statement of Ownership and Location should be delivered.
- 3) Collect the \$55 fee for Application for Statement of Ownership and Location and all necessary recording fees.
- 4) File the completed, executed, and notarized Application for Statement of Ownership and Location with:

Texas Department of Housing and Community Affairs  
Manufactured Housing Division  
P. O. Box 12489  
Austin, TX 78711-2489

**This step must BY LAW be completed no later than the 60<sup>th</sup> day after the closing of the sale, exchange, or lease-purchase. Delay beyond that date may give rise to the incurring of penalties, for which you will be held responsible in the event they are assessed.**

5) Upon receipt of a recordable copy of the Statement of Ownership and Location that is issued by the Texas Department of Housing and Community Affairs, Manufactured Housing Division, record that document in the real property records for the county where the Home is reflected as being located.

6) Notify the Tax Assessor-Collector for the county where the Home is located that the Statement of Ownership and Location has been recorded.

7) Provide the Texas Department of Housing and Community Affairs, Manufactured Housing Division with a copy of the file stamped, recorded Statement of Ownership and Location, accompanied by a statement confirming that step 6, above, was done.

**Steps 5, 6, and 7 MUST be done within the 60 day period following the date of issuance of the Statement of Ownership and Location by the Texas Department of Housing and Community Affairs.**

These instructions are in addition to and not in lieu of any instructions provided by any lender or other party.

In the event that the Texas Department of Housing and Community Affairs, Manufactured Housing Division requires any additional information in order to process the Application for Statement of Ownership and Location, you may contact the undersigned for assistance.

The Application for Statement of Ownership and Location, completed and executed by the undersigned but still requiring the completion and notarized execution by the New Owner(s) is enclosed herewith.

This instructions letter is being sent as an original and a copy. Please acknowledge these instructions in the space provided on the copy and return it to the undersigned at:

[            ]

Please do not hesitate to call if there is anything further you require in this regard.

Sincerely,

Enclosures

Acknowledged this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_

By: \_\_\_\_\_

Figure: 10 TAC §80.100(b)(33)

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**TAX LIEN RECORD/RELEASE**

*Please type or print clearly.*

**BLOCK 1: Information**

**Taxpayer Name and Tax Roll Account # are for information purposes only. All other information is REQUIRED.**

**HUD Label or Texas Seal #: \_\_\_\_\_ OR Serial #: \_\_\_\_\_**

**Tax Roll Account #: \_\_\_\_\_**

**Complete 8-Digit Taxing Entity ID #: \_\_\_\_\_**

**County Code (3 digits): \_\_\_\_\_**

**County Name: \_\_\_\_\_**

**Tax Year Recorded/Released: \_\_\_\_\_**

**Amount of Lien (Aggregate amount if Central Tax Collector is filing for multiple entities.): \_\_\_\_\_**

**Taxpayer Name: \_\_\_\_\_**  
(Name)

**Taxpayer Address: \_\_\_\_\_**  
(Address)

\_\_\_\_\_  
(City) (State) (Zip Code)

**Collector's Name & Name of Taxing Entity: \_\_\_\_\_**

**Collector's Address: \_\_\_\_\_**  
(Address)

\_\_\_\_\_  
(City) (State) (Zip Code)

**Collector's Phone #: ( ) \_\_\_\_\_**

**BLOCK 2: Signature REQUIRED for Tax Lien Recording**

I hereby certify that the lien being **RECORDED** with this form is in accordance with all applicable provisions of the Tax Code. If this lien recordation is done as a central collector, the undersigned further represents that it is on file as a central collector with the Texas Department of Housing and Community Affairs and that such records are complete and current.

\_\_\_\_\_  
(Collector's Signature)

\_\_\_\_\_  
(Date)

**BLOCK 3: Signature REQUIRED for Tax Lien Release**

I hereby certify that the lien being **RELEASED** with this form has been discharged and should be removed from the records of the Texas Department of Housing and Community Affairs. If this lien release is done as a central collector, the undersigned further represents that it is on file as a central collector with the Texas Department of Housing and Community Affairs and that such records are complete and current.

\_\_\_\_\_  
(Collector's Signature)

\_\_\_\_\_  
(Date)

**Department Use Only**

**Filing Recorded  
Date:**

**Filing NOT Recorded because:**

- ☐ No manufactured home ID#(s) provided.  
☐ Our records indicate that this home is real property. No lien can be recorded.  
☐ Received after the filing deadline.  
☐ Required Information not provided.

Figure: 10 TAC §80.100(b)(34)

Texas Department of Housing and Community Affairs

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**NOTIFICATION OF FILING STATUS AS A CENTRAL TAX COLLECTOR**

*Please type or print clearly.*

**BLOCK 1: Central Tax Collector Information**

Central Collector Name: \_\_\_\_\_

Central Collector's Address: \_\_\_\_\_

(Address)

(City)

(State) (Zip Code)

Phone #: (      )

FAX #: (      )

Email: \_\_\_\_\_

**BLOCK 2: Assignment of Central Tax Collector Number**

*(Department Use Only. The Department will notify taxing entity of the assigned number.)*

Central Tax Collector Number: CTC- \_\_\_\_\_

**BLOCK 3: Taxing Jurisdiction Information**

County Name: \_\_\_\_\_ County Code (3 digits): \_\_\_\_\_

Complete 8-Digit Taxing Entity ID #

Name of Taxing Entity


Additional taxing entities may be listed on the reverse side of this form.

**BLOCK 3: Notarized Signature Required**

Until revoked by written notice to the Department, the undersigned will be the sole agent of each taxing entity listed herein for the recordation and release of tax liens on manufactured homes within the county specified herein. The undersigned represents and warrants that it is acting as a centralized collector and that it has legal authority to record and release such liens under the Central Tax Collector number designated herein. A lien filed for a particular year under the designated Central Tax Collector number may be for taxes due to one or more of the entities for which the Central Collection Agent collects, whereas a lien release filed for that year under that same number indicates that ALL taxes due to each entity for which the Agent collects have been discharged. In the event that any of the information provided herein changes, the undersigned agrees and undertakes to provide the Department with written notice of such change at least ten (10) days prior to its taking effect, and until and unless such written notice has been actually received by the Department at least ten (10) days prior to its taking effect, the Department will not be bound by it.

\_\_\_\_\_  
(Central Collector's Signature)

\_\_\_\_\_  
(Date)

Before me personally appeared the person(s) whose signature(s) appear above, who by being sworn, upon oath, say that the statements set forth hereinabove are true and correct. Subscribed and sworn before me this \_\_\_\_ day of 20\_\_\_\_.

\_\_\_\_\_  
(Name of Notary)

\_\_\_\_\_  
(Notary Public)

SEAL

\_\_\_\_\_  
(Commission Expires)

Notary Public State of Texas



Figure: 30 TAC §30.28(x)(6)

Type of Training	Fee Amount
<b>Association Meetings - training sessions up to (2) two hours (over two hours, see conferences)</b>	\$10 per training credit hour
<b>Association Meetings - annual review for single chapter, section, or district with 12 or less meetings per year</b>	\$100 per annual review application
<b>Association Meetings - annual review for multiple chapters, sections, or districts with 12 or less meetings per year for each</b>	\$400 per annual review application
<b>Conferences</b>	\$10 per training credit hour or \$50 minimum
<b>Classroom Training - using existing approved manuals.</b>	\$10 per training credit hour or a minimum of \$50
<b>Classroom Training with new manuals and new materials</b>	\$25 per training credit hour or a minimum of \$100
<b>Technology-Based (On-line, CD-ROM)</b>	\$25 per training credit hour or a minimum of \$100
<b>Correspondence Courses</b>	\$25 per training credit hour or a minimum of \$100

Figure: 30 TAC §30.213(a)

<b>Type of MSW Facility</b>	<b>Level of License Required</b>
Type I landfill facilities	Class A
Type IX landfill mining facilities	Class A
Type IV landfill	Class B
Type V storage and processing facilities not otherwise specified	Class B
Type IX energy or material recovery facilities (other)	Class B
Permitted compost facilities	Class B
Type VI demonstration facilities	Class C
Type VII land application facilities	Class C
Type VIII used or scrap tire facilities	Class C
Registered compost facilities	Class B
Type IAE landfill facilities	Class A

Figure: 30 TAC §30.355(c)

<b>Number of Facilities Served</b>	<b>Fee</b>
0 - 4	\$122
5 - 9	\$240
10 - 19	\$399
20 or more	\$636



# IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

## Texas Department of Agriculture

### Correction of Error

The Texas Department of Agriculture adopted new §1.951 and §1.954, concerning the Home Delivered Meal Grant Program, published in the September 7, 2007, issue of the *Texas Register* (32 TexReg 6127). The Department makes the following corrections to the adopted text.

On page 6129, §1.951(8), definition of "Home-delivered meal", the words "preprepared" and "an" should not have been included in the adoption and should be deleted. The definition should read:

"(8) Home-delivered meal--Individual sized portions of foods that, in the aggregate, meet 1/3 of the Recommended Dietary Allowance (RDA) of nutrition for adults and the Dietary Guidelines for Americans, or shall adhere to federal meal pattern requirements."

On page 6129, §1.954(1), the word "currently" should be deleted. The paragraph should read:

"(1) administers a home-delivered meal program and is a direct provider of home-delivered meals to Elderly persons and/or persons with a Disability;"

TRD-200704178



## Automobile Theft Prevention Authority

### Notice of Agency Name Change

Through the enactment of House Bill 1887, 80th Legislature, 2007, the Governor and the Legislature have directed that the Automobile Theft Prevention Authority to include burglary of a vehicle in the scope of the authority's mission and work.

Effective September 1, 2007, the name of the Automobile Theft Prevention Authority has been changed to the Automobile Burglary and Theft Prevention Authority. As of September 1, 2007, the name of Title 43, Part 3 of the *Texas Administrative Code* is the Automobile Burglary and Theft Prevention Authority, but the rule numbers and names under the part will remain the same.

TRD-200704159

Susan Sampson

Director

Automobile Theft Prevention Authority

Filed: September 7, 2007



## Comptroller of Public Accounts

Local Sales Tax Rate Changes Effective October 1, 2007

The 1 3/4 percent local sales and use tax will be **abolished**, effective September 30, 2007, in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Sunset (Montague Co)	2169043	.000000	.062500

A 1 1/2 percent local sales and use tax that includes the 1 percent city sales and use tax and an additional 1/2 percent additional city sales and use tax for Property Tax Relief will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Horseshoe Bay (Burnet Co)	2027072	.015000	.077500
Horseshoe Bay (Llano Co)	2027072	.015000	.077500

The 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will be **abolished**, effective September 30, 2007, in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
*Lavon (Collin Co)	2043269	.015000	.077500
*Webberville (Travis Co)	2227203	.017500	.080000

\* **Note:** No election held to reauthorize the city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code.

An additional 1/4 percent city sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Crowell (Foard Co)	2078016	.017500	.080000
Levelland (Hockley Co)	2110016	.017500	.080000
Payne Springs (Henderson Co)	2107155	.017500	.080000
Pleak (Fort Bend Co)	2079140	.017500	.080000

An additional 1/4 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4A** will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Ore City (Upshur Co)	2230020	.015000	.082500
Pottsboro (Grayson Co)	2091117	.020000	.082500

An additional 1/4 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Buffalo Gap (Taylor Co)	2221067	.020000	.082500
Little Elm (Denton Co)	2061088	.020000	.082500

An additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Glen Rose (Somervell Co)	2213012	.020000	.082500
Hart (Castro Co)	2035027	.015000	.082500
Maypearl (Ellis Co)	2070087	.015000	.077500
Spur (Dickens Co)	2063013	.015000	.082500

A 1/2 percent additional city sales and use tax for Property Tax Relief will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Florence (Williamson Co)	2246086	.017500	.080000
Loraine (Mitchell Co)	2168026	.015000	.082500
Rose City (Orange Co)	2181056	.015000	.082500

An additional 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code plus an additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Bangs (Brown Co)	2025029	.017500	.080000

An additional 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code plus an additional 1/4 percent sales and use tax for property tax relief will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Italy (Ellis Co)	2070096	.020000	.082500

An additional 1 percent city sales and use tax for improving and promoting economic and industrial development that includes an additional 1/2 percent as permitted under Article 5190.6, Section **4A** plus an additional 1/2 percent as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the cities listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Fulshear (Fort Bend Co)	2079104	.020000	.082500
Krugerville (Denton Co)	2061159	.020000	.082500

An additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** plus an additional 1/2 percent sales and use tax for property tax relief will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Lincoln Park (Denton Co)	2061097	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will be **reduced** to 1/4 percent and the adoption of an additional 1/4 percent sales and use tax for Municipal Street Maintenance and Repair as permitted under Chapter 327 of the Texas Tax Code will become effective October 1, 2007 in the cities listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Buffalo (Leon Co)	2145015	.015000	.082500
Ingleside (San Patricio Co)	2205021	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4A** will be **reduced** to 3/8 percent and an additional 1/8 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Harlingen (Cameron Co)	2031012	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4A** will be **reduced** to 1/4 percent and an additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Hempstead (Waller Co)	2237023	.020000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will be **reduced** to 1/4 percent and an additional 1/2 percent sales and use tax for property tax relief will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Clear Lake Shores (Galveston Co)	2084081	.020000	.082500

The additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4A** was **abolished** and the **adoption** of an additional 1/4 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the city listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Pecos (Reeves Co)	2195014	.015000	.082500

The additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4A** was **abolished** and the **adoption** of an additional 1/2 percent sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will become effective October 1, 2007 in the cities listed below. There will be no change in the local rate or total rate.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Breckenridge (Stephens Co)	2215010	.017500	.080000
Cameron (Milam Co)	2166028	.015000	.082500
Marble Falls (Burnet Co)	2027018	.020000	.082500

An additional 1/2 percent city sales and use tax for improving and promoting economic and industrial development as permitted under Article 5190.6, Section **4B** will be **abolished**, effective September 30, 2007, and two 1/8 percent city sales and use tax for Sports and Community Venue will become effective October 1, 2007 in the city listed below.

<u>CITY NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Grand Prairie (Dallas Co)	2220013	.017500	.082500
Grand Prairie (Ellis Co)	2220013	.017500	.082500
Grand Prairie (Tarrant Co)	2220013	.017500	.082500

An additional 1 percent sales and use tax for county property tax relief will become effective October 1, 2007 in the county listed below.

<u>COUNTY NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Jim Hogg	4124001	.010000	SEE NOTE 1

An additional 1 percent SPD sales and use tax for emergency services as permitted under Chapter 775 of the Health and Safety Code will become effective October 1, 2007 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>LOCAL RATE</u>	<u>TOTAL RATE</u>
Montgomery County Emergency Services District No. 9	5170585	.020000	.082500

A 1/4 percent special purpose district sales and use tax will become effective October 1, 2007 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Grand Prairie Crime Control and Prevention District	5220745	.002500	SEE NOTE 2

A 1/2 percent special purpose district sales and use tax will become effective October 1, 2007 in the special purpose district listed below.

<u>SPD NAME</u>	<u>LOCAL CODE</u>	<u>NEW RATE</u>	<u>TOTAL RATE</u>
Cottonwood Shores Crime Control and Prevention District	5027508	.005000	SEE NOTE 3

NOTE 1: The Jim Hogg County Assistance District with a 1/2 percent SPD sales tax and the Jim Hogg County Health Services District also with a 1/2 percent SPD sales tax are county-wide Special Purpose Districts. There are no taxing cities in the County. The total rate in Jim Hogg County including the two SPDs will be 8 1/4 percent.

NOTE 2: The boundaries of the Grand Prairie Crime Control and Prevention District are the same boundaries as the City of Grand Prairie. The total rate in the City of Grand Prairie will be 8 1/4 percent.

NOTE 3: The boundaries of the Cottonwood Shores Crime Control and Prevention District are the same boundaries as the City of Cottonwood Shores. The total rate in the City of Cottonwood Shores will be 8 percent.

TRD-200704202  
Martin Cherry  
General Counsel  
Comptroller of Public Accounts  
Filed: September 12, 2007



#### Notice of Request for Proposals

Pursuant to Chapters 403 and 2254, Subchapter A, and Chapter 2305, §2305.038, Texas Government Code; and Chapter 388, Health and Safety Code, the Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO), announces the issuance of its Request for Proposals (RFP #180f) from qualified, independent firms to provide professional energy engineering assistance and related services (Services) for the Local Governments Program (Program). One or more successful respondents will assist Comptroller in providing energy engineering assistance to state agencies, institutions of higher education, and local governments and other entities to aid in compliance with Chapter 388, Health and Safety Code, as amended by Senate Bill 12, 80th Texas Legislature, Regular Session (2007), as directed by Comptroller. Comptroller reserves the right to award one or more contracts under this RFP. The successful respondent(s), if any, will be expected to begin performance of the contract(s), if any, on or about November 1, 2007, or as soon thereafter as practical.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 East 17th Street, ROOM G-24, Austin, Texas 78774 (Issuing Office), telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on or after Friday, September 21, 2007, after 10:00 a.m., Central Zone Time (CZT), and during normal business hours thereafter. Comptroller will also make the complete RFP available electronically on the Electronic State Business Daily (ESBD) after 10:00 a.m. (CZT), Friday, September 21, 2007.

All written inquiries, questions, and Non-Mandatory Letters of Intent to propose must be received in the Issuing Office prior to 2:00 p.m. (CZT) on Friday, September 28, 2007. Prospective respondents are encouraged to fax Letters of Intent and Questions to (512) 475-0973 to ensure timely receipt. The responses to questions and other information pertaining to this procurement will be posted on October 5, 2007, or as soon thereafter as practical, on the ESBD at: <http://esbd.cpa.state.tx.us>. Questions and inquiries received after the deadline will not be considered; respondents are solely responsible for verifying timely receipt in the Issuing Office of Non-Mandatory Letters of Intent and Questions.

Closing Date: Proposals must be received in the Issuing Office at the location specified above no later than 2:00 p.m. (CZT), on Friday, October 19, 2007. Proposals received in the Issuing Office after this time and date will not be considered; respondents are solely responsible for verifying timely receipt of Proposals in the Issuing Office.

Evaluation and Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria and procedures set forth in the RFP. Comptroller will make the final decision. Comptroller reserves the right to accept or reject any or all proposals submitted. Comptroller is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of any RFP. Comptroller shall pay for no costs incurred by any entity in responding to this notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP--September 21, 2007; Non-Mandatory Letters of Intent and Questions Due--September 28, 2007, 2 p.m. CZT; Official Questions and Responses posted--October 5, 2007 (or as soon thereafter as practical); Proposals Due--October 19, 2007, 2 p.m. CZT; Contract Execution--November 1, 2007, or as soon thereafter as practical; Commencement of Project Activities--November 1, 2007, or as soon thereafter as practical.

TRD-200704204  
Pamela Smith  
Deputy General Counsel for Contracts  
Comptroller of Public Accounts  
Filed: September 12, 2007



#### Notice of Request for Proposals

Pursuant to Chapters 403 and 2254, Subchapter A, and Chapter 2305, §2305.038, Texas Government Code; and Chapter 388, Health and Safety Code, the Comptroller of Public Accounts (Comptroller), State Energy Conservation Office (SECO), announces the issuance of its Request for Proposals (RFP #180f) from qualified, independent firms to provide professional energy engineering assistance and related services (Services) for the Local Governments Program (Program). One or more successful respondents will assist Comptroller in providing energy engineering assistance to state agencies, institutions of higher education, and local governments and other entities to aid in compliance with Chapter 388, Health and Safety Code, as amended by Senate Bill 12, 80th Texas Legislature, Regular Session (2007), as directed by Comptroller. Comptroller reserves the right to award one or more contracts under this RFP. The successful respondent(s), if any, will be expected to begin performance of the contract(s), if any, on or about November 1, 2007, or as soon thereafter as practical.

Contact: Parties interested in submitting a proposal should contact William Clay Harris, Assistant General Counsel, Contracts, Comptroller of Public Accounts, 111 East 17th Street, ROOM G-24, Austin, Texas 78774 (Issuing Office), telephone number: (512) 305-8673, to obtain a copy of the RFP. The Comptroller will mail copies of the RFP only to those specifically requesting a copy. The RFP will be available for pick-up at the above-referenced address on or after Friday, September 21, 2007, after 10:00 a.m., Central Zone Time (CZT), and during normal business hours thereafter. Comptroller will also make the complete RFP available electronically on the Electronic State Business Daily (ESBD) after 10:00 a.m. (CZT), Friday, September 21, 2007.

All written inquiries, questions, and Non-Mandatory Letters of Intent to propose must be received in the Issuing Office prior to 2:00 p.m. (CZT) on Friday, September 28, 2007. Prospective respondents are encouraged to fax Letters of Intent and Questions to (512) 475-0973 to ensure timely receipt. The responses to questions and other information pertaining to this procurement will be posted on October 5, 2007, or as soon thereafter as practical, on the ESBD at: <http://esbd.cpa.state.tx.us>. Questions and inquiries received after the deadline will not be considered; respondents are solely responsible for verifying timely receipt in the Issuing Office of Non-Mandatory Letters of Intent and Questions.

Closing Date: Proposals must be received in the Issuing Office at the location specified above no later than 2:00 p.m. (CZT), on Friday, October 19, 2007. Proposals received in the Issuing Office after this time and date will not be considered; respondents are solely responsible for verifying timely receipt of Proposals in the Issuing Office.

Evaluation and Award Procedure: All proposals will be subject to evaluation by a committee based on the evaluation criteria and procedures set forth in the RFP. Comptroller will make the final decision. Comptroller reserves the right to accept or reject any or all proposals submitted. Comptroller is under no legal or other obligation to execute a contract on the basis of this notice or the distribution of any RFP. Comptroller shall pay for no costs incurred by any entity in responding to this notice or the RFP.

The anticipated schedule of events is as follows: Issuance of RFP--September 21, 2007; Non-Mandatory Letters of Intent and Questions Due--September 28, 2007, 2:00 p.m. CZT; Official Questions and Responses posted--October 5, 2007 (or as soon thereafter as practical); Proposals Due--October 19, 2007, 2:00 p.m. CZT; Contract Execution--November 1, 2007, or as soon thereafter as practical; Commencement of Project Activities--November 1, 2007, or as soon thereafter as practical.

TRD-200704205  
Pamela Smith  
Deputy General Counsel for Contracts  
Comptroller of Public Accounts  
Filed: September 12, 2007

## Office of Consumer Credit Commissioner

### Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §303.003 and §303.009, Tex. Fin. Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/17/07 - 09/23/07 is 18% for Consumer<sup>1</sup>/Agricultural/Commercial<sup>2</sup> credit thru \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 09/17/07 - 09/23/07 is 18% for Commercial over \$250,000.

<sup>1</sup>Credit for personal, family, or household use.

<sup>2</sup>Credit for business, commercial, investment, or other similar purpose.

TRD-200704183  
Leslie L. Pettijohn  
Commissioner  
Office of Consumer Credit Commissioner  
Filed: September 11, 2007

## Texas Education Agency

### Request for Applications Concerning the Science and Math Outreach Grant, 2007-2009

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under Request for Applications (RFA) #701-07-124 for the Science and Math Outreach Grant from public, private, nonprofit, and for-profit entities that conduct outreach programs providing interactive educational experiences for public school students in science and mathematics. Grant recipients may include but are not limited to museums, planetariums, nature preserves, and traveling exhibits providing science and mathematics education to public school audiences.

Description. This program will fund grants designed for outreach programs providing interactive educational experiences for public school students in science and mathematics. Applicants will articulate the link between place-based and experiential learning and student success in mathematics and science. The goal is to increase student access to place-based, hands-on, and informal science and mathematics providers in order to increase student academic achievement in mathematics and science.

Dates of Project. The Science and Math Outreach Grant will be implemented during the 2007-2008 and 2008-2009 school years. Applicants should plan for a starting date of no earlier than April 1, 2008, and an ending date of no later than March 31, 2009.

Project Amount. A total of approximately \$300,000 is available for funding the Science and Math Outreach Grants. Funding will be provided for approximately three to six projects. Each project will receive a maximum of \$50,000 to \$100,000 for the project period.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. The TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

The TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. A complete copy of the RFA may be obtained by writing the Document Control Center, Room 6-108, Texas Education Agency, William B. Travis Building, 1701 North Congress Avenue, Austin, Texas 78701; by calling (512) 463-9304; by faxing (512) 463-9811; or by e-mailing [dcc@tea.state.tx.us](mailto:dcc@tea.state.tx.us). Please refer to the RFA number and title in your request. Provide your name, complete mailing address, and phone number including area code. The announcement letter and complete RFA will also be posted on the TEA website at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In

the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

**Further Information.** For clarifying information about the RFA, contact Amy Werst, Division of Discretionary Grants, Texas Education Agency, (512) 936-7238. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any information that is different from or in addition to information provided in the RFA will be provided only in response to written inquiries. Copies of all such inquiries and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

**Deadline for Receipt of Applications.** Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Thursday, November 8, 2007, to be eligible to be considered for funding.

TRD-200704207

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: September 12, 2007

## Texas Commission on Environmental Quality

### Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-1864 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: ABZZ Corporation dba Ritz Cleaner, dba American Cleaners, and dba 2000 Dry Clean; DOCKET NUMBER: 2006-1273-DCL-E; IDENTIFIER: RN103957171, RN103957304, and RN103957189; LOCATION: Katy, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop stations; RULE VIOLATED: 30 Texas Administrative Code (TAC) §337.11(e) and Texas Health and Safety Code (THSC), §374.102, by failing to renew the facilities' registration by completing and submitting the required registration form; and 30 TAC §337.14(c) and the Code, §5.702, by failing to pay outstanding dry cleaner registration fees; PENALTY: \$3,437; ENFORCEMENT COORDINATOR: Marlin Bullard, (254) 761-3035; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(2) COMPANY: Baylor University; DOCKET NUMBER: 2007-1318-PST-E; IDENTIFIER: RN101485662; LOCATION: McLennan County, Texas; TYPE OF FACILITY: school with fleet refueling; RULE VIOLATED: 30 TAC §334.8(c), by failing to submit initial/renewal underground storage tank (UST) registration and self-certification form; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(3) COMPANY: Bowles Construction Co.; DOCKET NUMBER: 2007-1342-WQ-E; IDENTIFIER: RN105278147; LOCATION: Erath County, Texas; TYPE OF FACILITY: construction; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a construction general permit; PENALTY: \$700; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Brookeland Fresh Water Supply District; DOCKET NUMBER: 2007-0772-MWD-E; IDENTIFIER: RN101519635; LOCATION: Jasper County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0010998001, Final Effluent Limitations and Monitoring Requirements Numbers 1 and 2, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$7,950; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(5) COMPANY: James W. Clark; DOCKET NUMBER: 2007-1170-WQ-E; IDENTIFIER: RN105214894; LOCATION: Copperas Cove, Coryell County, Texas; TYPE OF FACILITY: construction site; RULE VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations (CFR) §122.26(c), by failing to obtain authorization to discharge storm water associated with construction activities; PENALTY: \$750; ENFORCEMENT COORDINATOR: Tom Jecha, (512) 239-2576; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(6) COMPANY: City of Collinsville; DOCKET NUMBER: 2005-0502-MWD-E; IDENTIFIER: RN101919959, TPDES Permit Number 10151001; LOCATION: Grayson County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 10151001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permitted effluent limits; PENALTY: \$4,020; Supplemental Environmental Project (SEP) offset amount of \$3,216 applied to extending first-time sewer service to one low income household in a rural area that is currently utilizing an older on-site septic system; ENFORCEMENT COORDINATOR: Pamela Campbell, (512) 239-4493; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.



(7) COMPANY: Davis and Wardlow Oil Co., Inc. dba Ron Laney Oil Co. Inc.; DOCKET NUMBER: 2007-1320-PST-E; IDENTIFIER: RN101875086; LOCATION: Baylor County, Texas; TYPE OF FACILITY: oil company with fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(8) COMPANY: David Dodier; DOCKET NUMBER: 2007-1103-PST-E; IDENTIFIER: RN101875656; LOCATION: Laredo, Webb County, Texas; TYPE OF FACILITY: property with one UST; RULE VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance; and 30 TAC §334.22(a) and the Code, §5.702, by failing to pay outstanding UST fees; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Elvia Maske, (512) 239-0789; REGIONAL OFFICE: 1403 Seymour, Suite 2, Laredo, Texas 78040-8752, (956) 791-6611.

(9) COMPANY: ExxonMobil Oil Corporation; DOCKET NUMBER: 2007-0811-AIR-E; IDENTIFIER: RN100542844; LOCATION: Beaumont, Jefferson County, Texas; TYPE OF FACILITY: petrochemical manufacturing plant; RULE VIOLATED: 30 TAC §116.115(b)(2)(F) and (c) and §122.143(4), Permit Number 7799/PSD-TX-860, Special Condition Number 1, Federal Operating Permit Number O-01173, General Terms and Conditions and Special Condition Number 20, and THSC, §382.085(b), by failing to properly operate emission control equipment during normal operations; PENALTY: \$5,375; Supplemental Environmental Project (SEP) offset amount of \$2,150 applied to Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")--Clean School Buses; ENFORCEMENT COORDINATOR: Lindsey Jones, (512) 239-4930; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(10) COMPANY: Fayette County; DOCKET NUMBER: 2007-0665-MWD-E; IDENTIFIER: RN102935541; LOCATION: Fayette County, Texas; TYPE OF FACILITY: domestic wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0014401001, Effluent Limitations, and the Code, §26.121(a), by failing to comply with permit effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number WQ0014401001, Sludge Provisions, by failing to submit discharge monitoring reports; PENALTY: \$2,469; Supplemental Environmental Project (SEP) offset amount of \$1,976 applied to holding a one-day county wide used tire collection and recycling event in which used tires may be dropped off at a designated location by citizens at no cost to the public; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5712, (512) 339-2929.

(11) COMPANY: Galveston County Water Control and Improvement District 19; DOCKET NUMBER: 2007-0896-PWS-E; IDENTIFIER: RN101408599; LOCATION: Galveston County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the maximum contaminant level (MCL) for total trihalomethanes (TTHM); PENALTY: \$770; ENFORCEMENT COORDINATOR: Tel Croston, (512) 239-5717; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(12) COMPANY: Gray Utility Service L.L.C.; DOCKET NUMBER: 2007-0945-PWS-E; IDENTIFIER: RN101233534; LOCATION: Chambers County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the MCL for TTHM; PENALTY: \$745; ENFORCEMENT COORDINATOR: Thomas Barnett, (713) 767-3500;

REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(13) COMPANY: Denny Heathcott; DOCKET NUMBER: 2007-1316-WOC-E; IDENTIFIER: RN105233233; LOCATION: Winters, Runnels County, Texas; TYPE OF FACILITY: onsite sewage; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$210; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(14) COMPANY: Conrad G. Walton dba Holiday Oaks Subdivision; DOCKET NUMBER: 2007-0763-PWS-E; IDENTIFIER: RN101184877; LOCATION: Washington County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(t), by failing to post legible signs that contain the name of the water supply and emergency telephone numbers; 30 TAC §290.41(c)(3)(J), by failing to provide concrete sealing blocks; 30 TAC §290.41(c)(3)(N), by failing to provide flow measuring devices to measure production yields and provide for the accumulation of water production data; 30 TAC §290.43(d)(3), by failing to equip the air injection line with a filter or other device to prevent compressor lubricants and other contaminants from entering the pressure tank; 30 TAC §290.42(e)(5), by failing to house the hypochlorination solution container in a secure enclosure; 30 TAC §290.43(c)(2), by failing to secure the water storage tank's roof hatch; 30 TAC §290.46(q)(1), by failing to issue a boil water notice within 24 hours after the occurrences of chlorine residual measurements below 0.2 milligrams per liter (mg/L); 30 TAC §290.110(b)(4) and THSC, §341.0315(c), by failing to maintain a free chlorine residual of at least 0.2 mg/L throughout the distribution system; 30 TAC §290.46(m)(1)(A), by failing to conduct an annual inspection of the water system's ground storage tank; 30 TAC §290.46(f)(2), by failing to provide water system records to commission personnel at the time of the investigation; 30 TAC §290.41(c)(1)(F) and Agreed Order Docket No. 2002-0209-PWS-E, Ordering Provision Number 2.a.i., by failing to provide a sanitary control easement or an approved exception to the easement requirement that covers the land within 150 feet of wells one and two; and 30 TAC §290.45(b)(1)(A)(i), Agreed Order Docket No. 2002-0209-PWS-E, Ordering Provision 2.c., and THSC, §341.0315(c), by failing to meet the minimum well capacity requirement of 1.5 gallons per minute (gpm) per connection; PENALTY: \$4,125; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (210) 490-3096; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(15) COMPANY: Iola Independent School District; DOCKET NUMBER: 2007-1074-PWS-E; IDENTIFIER: RN101221620; LOCATION: Iola, Grimes County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.113(f)(4) and THSC, §341.0315(c), by failing to comply with the MCL for TTHM; PENALTY: \$925; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (210) 490-3096; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: J. H. Strain & Sons, Inc.; DOCKET NUMBER: 2007-1341-WQ-E; IDENTIFIER: RN105234736; LOCATION: Abilene, Taylor County, Texas; TYPE OF FACILITY: construction; RULE VIOLATED: 30 TAC §281.25(a)(4), by failing to obtain a Construction General Permit; PENALTY: \$700; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 796-7092.

(17) COMPANY: City of Kingsville; DOCKET NUMBER: 2007-0765-WQ-E; IDENTIFIER: RN102334570; LOCATION: Kingsville, Kleberg County, Texas; TYPE OF FACILITY: municipal solid waste landfill; RULE VIOLATED: 30 TAC §281.25(a)(4), 40

CFR §122.26(c), and TPDES General Permit Number TXR05L074, Part III.A.3.c., by failing to certify the non-storm water discharge survey within 180 days of the submittal of the Notice of Intent; and 30 TAC §281.25(a)(4), 40 CFR §122.26(c), and TPDES General Permit Number TXR05L074, Part III.A.7.b., by failing to perform the Annual Comprehensive Site Compliance Evaluation and submit the report in 2004, 2005, and 2006; PENALTY: \$3,440; ENFORCEMENT COORDINATOR: Lindsey Jones, (512) 239-4930; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(18) COMPANY: City of Leona; DOCKET NUMBER: 2007-0708-PWS-E; IDENTIFIER: RN101404002; LOCATION: Leon County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.43(d)(3), by failing to equip all air compressor injection lines for pressure tanks with a filter to prevent compressor lubricants or other contaminants from entering the pressure tank; 30 TAC §290.41(c)(1)(D), by failing to ensure that livestock in pastures are prohibited from within 50 feet of a public drinking water supply well; 30 TAC §290.43(c)(3) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iii., by failing to provide a properly sealed overflow pipe flap valve assembly on the ground storage tank; 30 TAC §290.46(f)(2) and TCEQ Agreed Order Docket No. 2003-1424-PWS-E, Ordering Provision 2.a.iv., by failing to provide water system records to be reviewed at the time of the investigation; and 30 TAC §290.42(l), by failing to provide a thorough and up-to-date plant operations manual; PENALTY: \$2,437; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(19) COMPANY: City of Levelland; DOCKET NUMBER: 2007-1343-PST-E; IDENTIFIER: RN102996238; LOCATION: Levelland, Hockley County, Texas; TYPE OF FACILITY: airport with fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(20) COMPANY: Live Oak Resort, Inc.; DOCKET NUMBER: 2007-0644-PWS-E; IDENTIFIER: RN101269926; LOCATION: Washington, Washington County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.41(c)(1)(F), by failing to obtain a sanitary control easement; 30 TAC §290.121(a), by failing to maintain an up-to-date chemical and microbiological monitoring plan; 30 TAC §290.41(c)(3)(O), by failing to provide an intruder-resistant fence; 30 TAC §290.42(i), by failing to compile a thorough plant operations manual and keep it up-to-date for operator review and reference; 30 TAC §290.46(n)(3), by failing to provide well completion data; 30 TAC §290.46(m)(1), by failing to conduct an annual inspection of the two 100-gallon pressure tanks; 30 TAC §290.46(n)(2), by failing to provide a map of the distribution system; 30 TAC §290.41(c)(3)(M), by failing to provide raw water sampling taps; 30 TAC §290.41(c)(3)(K), by failing to properly seal the wellhead on well one; 30 TAC §290.44(d), by failing to design, maintain, and operate the water system to provide a minimum pressure of 35 pounds per square inch at flow rates of at least 1.5 gpm per connection; and 30 TAC §290.110(c)(5)(A), by failing to monitor the chlorine residual at representative locations in the distribution system; PENALTY: \$2,572; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(21) COMPANY: Mestena Uranium, L.L.C.; DOCKET NUMBER: 2007-1010-UIC-E; IDENTIFIER: RN102360039; LOCATION:

Encino, Brooks County, Texas; TYPE OF FACILITY: underground injection control well; RULE VIOLATED: 30 TAC §37.7021(c), by failing to secure acceptable financial assurance; PENALTY: \$2,000; ENFORCEMENT COORDINATOR: Cynthia McKaughan, (512) 239-0739; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(22) COMPANY: Martin Leon Edwards dba Minnow Bucket Marina; DOCKET NUMBER: 2007-0836-MWD-E; IDENTIFIER: RN105092308; LOCATION: Quitman, Wood County, Texas; TYPE OF FACILITY: wastewater treatment plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0014668001, Effluent Limitations and Monitoring Requirements Number 1 for Outfall 001, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$2,400; ENFORCEMENT COORDINATOR: Harvey Wilson, (512) 239-0321; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(23) COMPANY: Andrew Moore; DOCKET NUMBER: 2007-1317-WOC-E; IDENTIFIER: RN105171508; LOCATION: Hallsville, Harrison County, Texas; TYPE OF FACILITY: licensing; RULE VIOLATED: 30 TAC §30.5(a), by failing to obtain a required occupational license; PENALTY: \$210; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(24) COMPANY: Yvonne Longoria dba Palm View Quick Lube; DOCKET NUMBER: 2007-1321-PST-E; IDENTIFIER: RN101693091; LOCATION: Mission, Hidalgo County, Texas; TYPE OF FACILITY: automobile maintenance; RULE VIOLATED: 30 TAC §334.50(b)(1)(A), by failing to provide release detection; PENALTY: \$1,750; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(25) COMPANY: Cholla Petroleum, Inc.; DOCKET NUMBER: 2007-1322-WR-E; IDENTIFIER: RN105242820; LOCATION: Kent County, Texas; TYPE OF FACILITY: water rights; RULE VIOLATED: the Code, §11.081 and §11.121, by impounding, diverting, or using state water without a required permit; PENALTY: \$350; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(26) COMPANY: Bothina J. Al-Hussein dba Quality Cleaners; DOCKET NUMBER: 2006-1318-DCL-E; IDENTIFIER: RN104096995; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaner drop station; RULE VIOLATED: 30 TAC §337.10(a) and THSC, §374.102, by failing to complete and submit the required registration form; PENALTY: \$1,185; ENFORCEMENT COORDINATOR: Audra Ruble, (361) 825-3100; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(27) COMPANY: Randolph Water Supply Corporation; DOCKET NUMBER: 2007-0179-MWD-E; IDENTIFIER: RN102915469; LOCATION: Fannin County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number 11343001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; 30 TAC §305.125(1) and (9) and TPDES Permit Number 11343001, Monitoring and Reporting Requirements Number 7.c., by failing to provide noncompliance notification reports for effluent limit violations; 30 TAC §305.125(1) and §319.1 and TPDES Permit Number 11343001, Monitoring and Reporting Requirement Number 1, by failing to submit timely annual sludge reports; and 30 TAC §305.125(2) and the Code, §26.121(a), by failing

to maintain a permit for the operation of the facility; PENALTY: \$41,410; ENFORCEMENT COORDINATOR: Catherine Albrecht, (713) 767-3500; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(28) COMPANY: Rhodia Inc.; DOCKET NUMBER: 2007-0799-IWD-E; IDENTIFIER: RN100219773; LOCATION: Vernon, Wilbarger County, Texas; TYPE OF FACILITY: guar processing plant; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0002537000, Effluent Limitations and Monitoring Requirements Number 1 for Outfall 001A, and the Code, §26.121(a), by failing to comply with the permitted effluent limitations; PENALTY: \$5,430; ENFORCEMENT COORDINATOR: Libby Hogue, (512) 239-1165; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (915) 698-9674.

(29) COMPANY: James Wayne Robinson; DOCKET NUMBER: 2007-0817-MWD-E; IDENTIFIER: RN102343373; LOCATION: Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0012830001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$4,410; ENFORCEMENT COORDINATOR: Tom Jecha, (512) 239-2576; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(30) COMPANY: City of Rogers; DOCKET NUMBER: 2007-0833-MWD-E; IDENTIFIER: RN102184678; LOCATION: Rogers, Bell County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010804001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; and 30 TAC §305.125(17) and TPDES Permit Number WQ0010804001, Sludge Provisions, by failing to submit monitoring results at the intervals specified in the permit; PENALTY: \$12,600; Supplemental Environmental Project (SEP) offset amount of \$10,080 applied to establishing and conducting an annual county wide used tire collection and recycling event in which used tires may be dropped off at a designed location by citizens at no cost to the public; ENFORCEMENT COORDINATOR: Deana Holland, (512) 239-2504; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(31) COMPANY: Rushing Paving Company, Ltd.; DOCKET NUMBER: 2007-0947-AIR-E; IDENTIFIER: RN102885662; LOCATION: Denison, Grayson County, Texas; TYPE OF FACILITY: construction activities site; RULE VIOLATED: 30 TAC §111.201 and THSC, §382.085(b), by failing to prevent unauthorized outdoor burning; PENALTY: \$2,675; ENFORCEMENT COORDINATOR: Bryan Elliott, (512) 239-6162; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(32) COMPANY: Seven Sanders Companies, Inc.; DOCKET NUMBER: 2007-0868-MSW-E; IDENTIFIER: RN104784137 and RN103040812; LOCATION: Lubbock, Lubbock County, Texas; TYPE OF FACILITY: municipal solid waste recycling; RULE VIOLATED: 30 TAC §328.5(d), by failing to establish and maintain sufficient financial assurance for the closure of its recycling facilities; PENALTY: \$5,690; ENFORCEMENT COORDINATOR: Marlin Bullard, (254) 751-0335; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(33) COMPANY: Stolthaven Houston, Inc.; DOCKET NUMBER: 2007-0824-IWD-E; IDENTIFIER: RN100210475; LOCATION: Houston, Harris County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit

Number 03129, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with the permitted effluent limits; PENALTY: \$13,725; Supplemental Environmental Project (SEP) offset amount of \$5,490 applied to Gulf Coast Waste Disposal Authority ("GCWDA")--River, Lakes, Bays 'N Bayous Trash Bash; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1486, (713) 767-3500.

(34) COMPANY: Taylor Petroleum Companies, Inc.; DOCKET NUMBER: 2007-0834-PWS-E; IDENTIFIER: RN101885069; LOCATION: Lubbock County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.45(d)(2)(B)(ii), by failing to provide a ground storage capacity equal to 50% of the maximum daily demand; 30 TAC §290.46(d)(2)(A), by failing to maintain a free chlorine residual of 0.2 mg/L; 30 TAC §290.46(f), by failing to maintain a complete record of water works operation and maintenance activities; and 30 TAC §290.45(d)(2)(B)(iii), by failing to provide at least one service pump with a capacity of three times the maximum daily demand; PENALTY: \$2,574; ENFORCEMENT COORDINATOR: Cynthia McKaughan, (512) 239-0735; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(35) COMPANY: Texas Renaissance Festivals, Inc.; DOCKET NUMBER: 2007-1319-PST-E; IDENTIFIER: RN102860368; LOCATION: Grimes County, Texas; TYPE OF FACILITY: fleet refueling; RULE VIOLATED: 30 TAC §334.8(c)(5)(A)(i), by failing to possess a valid TCEQ delivery certificate prior to receiving fuel; PENALTY: \$875; ENFORCEMENT COORDINATOR: Melissa Keller, (512) 239-1768; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(36) COMPANY: Thompson Heights Development Company; DOCKET NUMBER: 2007-0813-MLM-E; IDENTIFIER: RN101226322; LOCATION: Grayson County, Texas; TYPE OF FACILITY: public water supply; RULE VIOLATED: 30 TAC §290.46(j), by failing to complete and maintain customer service inspection reports; 30 TAC §290.42(l), by failing to maintain a facility operations manual for operator review and reference; 30 TAC §290.121(a), by failing develop and maintain an up-to-date chemical and microbiological monitoring plan; 30 TAC §290.46(i), by failing to provide a plumbing ordinance or service agreement; 30 TAC §290.45(f)(1), by failing to provide a water purchase contract; 30 TAC §290.46(f), by failing to properly develop and maintain records of water works operation and maintenance activities and make them available to commission personnel; 30 TAC §290.46(e)(4)(A) and THSC, §341.034(b), by failing to provide a public water supply operator who holds an applicable, valid license issued by the commission; and 30 TAC §288.30(5), by failing to develop and maintain a drought contingency plan for the water system; PENALTY: \$1,260; ENFORCEMENT COORDINATOR: Yuliya Dunaway, (210) 490-3096; REGIONAL OFFICE: 2301 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(37) COMPANY: Town & Country Food Stores, Inc. dba Town & Country 267; DOCKET NUMBER: 2007-1147-PST-E; IDENTIFIER: RN102022829; LOCATION: Sonora, Sutton County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(d)(9)(A)(iii) and the Code, §26.3475(c)(1), by failing to obtain a statistical inventory reconciliation analysis; 30 TAC §334.50(d)(9)(A)(iv) and §334.72(3)(B), by failing to report a suspected release; and 30 TAC §334.74(l), by failing to investigate a suspected release within 30 days of discovery; PENALTY: \$7,650; ENFORCEMENT COORDINATOR: Judy

Kluge, (817) 588-5800; REGIONAL OFFICE: 622 South Oaks, Suite K, San Angelo, Texas 76903-7013, (916) 655-9479.

(38) COMPANY: Roger Wall dba Wall's Tire Service; DOCKET NUMBER: 2007-0761-MSW-E; IDENTIFIER: RN104953252; LOCATION: San Augustine, San Augustine County, Texas; TYPE OF FACILITY: retail scrap/used tire; RULE VIOLATED: 30 TAC §328.56(a)(1) and (d)(2) and THSC, §361.112(a), by failing to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground; PENALTY: \$2,100; ENFORCEMENT COORDINATOR: Dana Shuler, (512) 239-2505; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1892, (409) 898-3838.

(39) COMPANY: A.K. Mittal dba Wes Texas Family Dining; DOCKET NUMBER: 2007-0946-PWS-E; IDENTIFIER: RN102315736; LOCATION: Lubbock, Lubbock County, Texas; TYPE OF FACILITY: restaurant with public water supply; RULE VIOLATED: 30 TAC §290.39(m), by failing to immediately provide the commission with written notification that an existing public water supply system has been reactivated; 30 TAC §290.41(c)(3)(K), by failing to provide a screened casing vent; and 30 TAC §290.46(d)(2) and §290.110(b)(2) and THSC, §341.0315(c), by failing to maintain a minimum disinfectant residual of 0.2 mg/L free chlorine throughout the distribution system; PENALTY: \$249; ENFORCEMENT COORDINATOR: Rebecca Clausewitz, (210) 490-3096; REGIONAL OFFICE: 4630 50th Street, Suite 600, Lubbock, Texas 79414-3520, (806) 796-7092.

(40) COMPANY: Town of Woodsboro; DOCKET NUMBER: 2007-1081-MWD-E; IDENTIFIER: RN101920551; LOCATION: Woodsboro, Refugio County, Texas; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0010156001, Effluent Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permit effluent limits; PENALTY: \$1,050; ENFORCEMENT COORDINATOR: Heather Brister, (512) 239-1203; REGIONAL OFFICE: 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

TRD-200704180

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 11, 2007



## Notice of Public Hearing on Proposed Revisions to the State Implementation Plan

The Texas Commission on Environmental Quality (commission or TCEQ) will conduct a public hearing to receive testimony regarding proposed revisions to the state implementation plan (SIP) for the control of the pollutant carbon monoxide (CO) in the El Paso area under the requirements of 40 Code of Federal Regulations §51.102, of the United States Environmental Protection Agency (EPA) regulations concerning the SIP.

The proposed action will ensure that the area remains in attainment of the CO standard and includes emissions projections that will not exceed the attainment inventory to horizon year 2020. The commission requests comments on the removal of the Oxygenated Fuel Program as a control measure. The earliest the removal could be effective is during the 2008-2009 winter season, as the commission would have to initiate and complete rulemaking to revoke this control measure. The commission's initial analysis indicates no adverse impact on the continued maintenance of the CO standard in the El Paso area if the Oxygenated Fuel Program is revoked. The 2002 baseline emissions and attainment

inventory is 29.66 tons/day. With all control strategies, including oxygenated fuels, the 2020 emissions is projected to be 15.94 tons/day. Without oxygenated fuels as a control strategy, the 2020 emissions is projected to be 16.30 tons per day, below the baseline emissions and attainment inventory of 29.66 tons/day.

This revision includes a commitment to submit a second ten-year maintenance plan in eight years as required by the EPA, i.e., two years before the end of the first ten-year maintenance plan period. This revision also applies a safety margin to make the Motor Vehicle Emissions Budget less constraining.

A public hearing on this proposal will be held in El Paso, on October 16, 2007, at 1:30 p.m., at the TCEQ's Regional Office, 401 E. Franklin Avenue, Suite 570. The hearing will be structured for the receipt of oral or written comments by interested persons. Registration will begin 30 minutes prior to the hearing. Individuals may present oral statements when called upon in order of registration. There will be no open discussion during the hearing; however, TCEQ staff will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact the Air Quality Division at (512) 239-4900. Requests should be made as far in advance as possible.

Comments may be submitted to Ita Ufot, MC 206, Air Quality Division, Chief Engineer's Office, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to (512) 239-5687. Electronic comments may be submitted at [www5.tceq.state.tx.us/rules/ecomments/](http://www5.tceq.state.tx.us/rules/ecomments/). File size restrictions may apply to comments being submitted via the eComments system. All comments pertaining to the El Paso revision for CO should reference Project Number 2007-014-SIP-NR. The comment period closes on October 18, 2007. Copies of the proposed revision may be viewed at the commission's web site at <http://www.tceq.state.tx.us/implementation/air/sip/jan2007ep.html>. Additional information about the previously submitted redesignation request and the El Paso SIP is available at the same site. For further information, please contact Ita Ufot, Air Quality Planning Section, (512) 239-1935.

TRD-200704124

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 7, 2007



## Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. The commission will consider any written comments received and the commission may withdraw or

withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Amiya Maliek dba CJ Grocery; DOCKET NUMBER: 2004-1097-PST-E; TCEQ ID NUMBER: RN102778818; LOCATION: 2816 State Highway 132 North, Natalia, Medina County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of six petroleum underground storage tanks (USTs); PENALTY: \$6,300; STAFF ATTORNEY: Becky Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: San Antonio Regional Office, 14250 Judson Road, San Antonio, Texas 78233-4480, (210) 490-3096.

(2) COMPANY: Brad Bolton; DOCKET NUMBER: 2003-1528-OSI-E; TCEQ ID NUMBER: RN103051066; LOCATION: 1876 Farm-to-Market (FM) 2131, Coleman, Coleman County, Texas; TYPE OF FACILITY: on-site sewage facility installer; RULES VIOLATED: 30 TAC §285.61(1), by failing to obtain a current Installer I or Installer II license before beginning construction; 30 TAC §285.61(5), by failing to notify the TCEQ of the date on which Mr. Bolton planned to begin construction; and 30 TAC §285.61(4), by failing to obtain documentation that the owner or owner's agent has permission from the permitting authority to begin construction, unless a permit is not required, before beginning construction; PENALTY: \$750; STAFF ATTORNEY: James Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Abilene Regional Office, 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(3) COMPANY: IZR Corporation dba Garland Fina; DOCKET NUMBER: 2003-1116-PST-E; TCEQ ID NUMBER: RN101551299; LOCATION: 3101 Saturn Road, Garland, Dallas County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.8(c)(5)(B)(ii) and Texas Water Code (TWC), §26.346(a), by failing to ensure that a TCEQ Fuel Delivery Certificate was renewed by timely and proper submission of a new UST registration and self-certification form; 30 TAC §334.8(c)(5)(A)(i) and TWC, §26.3467(a), by failing to make available a valid, current TCEQ Fuel Delivery Certificate to a common carrier prior to receiving fuel deliveries on February 14 and 17, 2003; 30 TAC §37.875(a), by failing to either maintain evidence of financial assurance at the UST site or to make such records available upon request; 30 TAC §334.50(b)(1)(A) and §334.50(d)(1)(B)(ii); and TWC, §26.3475(c)(1), by failing to conduct monthly monitoring of the UST system; and 30 TAC §334.8(c)(5)(C), by failing to tag, label or mark

the fill tubes for each regulated UST; PENALTY: \$16,800; STAFF ATTORNEY: Becky Combs, Litigation Division, MC 175, (512) 239-6939; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(4) COMPANY: Marrice Hampton; DOCKET NUMBER: 2004-1052-MLM-E; TCEQ ID NUMBER: RN104222336; LOCATION: 12170 County Road 1121, Tyler, Smith County, Texas; TYPE OF FACILITY: solid waste dump owned and operated at residence; RULES VIOLATED: 30 TAC §361.112(a) and §330.4(a), and Texas Health and Safety Code (THSC), §361.112(a), by failing to obtain registration for a facility receiving or storing more than 500 scrap tires on the ground; 30 TAC §330.4(a), by failing to obtain authorization from the TCEQ prior to accepting or storing municipal solid waste; and 30 TAC §111.201, by failing to prevent outdoor burning of tires, brush, debris, and municipal solid waste; PENALTY: \$17,500; STAFF ATTORNEY: James Sallans, Litigation Division, MC 175, (512) 239-2053; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(5) COMPANY: Water Association of North Lake, Inc.; DOCKET NUMBER: 2006-1750-PWS-E; TCEQ ID NUMBER: RN101450047; LOCATION: 2094 Dove Creek Circle, Aubrey, Denton County, Texas; TYPE OF FACILITY: public water supply; RULES VIOLATED: 30 TAC §290.46(u) and TCEQ Agreed Order Docket No. 2004-0464-PWS-E, Ordering Provisions Nos. 2.b.ii. and 2.c, by failing to test an abandoned well to demonstrate if it is in a non-deteriorated condition or plug the well with cement; 30 TAC §290.43(d)(2) and TCEQ Agreed Order Docket No. 2004-0464-PWS-E, Ordering Provisions Nos. 2.f.ii. and 2.g, by failing to provide a pressure release device on the 220-gallon pressure tank; 30 TAC §290.43(d)(3) and TCEQ Agreed Order Docket No. 2004-0464-PWS-E, Ordering Provisions Nos. 2.f.iii and 2.g., by failing to provide an air/water volume indicator on the 1,040 gallon pressure tank; 30 TAC §290.41(c)(1)(F) and TCEQ Agreed Order Docket No. 2004-0464-PWS-E, Ordering Provisions Nos. 2.f.i. and 2.g, by failing to provide a sanitary control easement or obtain an exception to the easement requirement that covers the land within 150 feet of Well No. 2; and 30 TAC §290.42(j), by failing to provide documentation demonstrating the use of an American National Standards Institute/ National Science Foundation 60 certified disinfectant; PENALTY: \$2,813; STAFF ATTORNEY: Mary Hammer, Litigation Division, MC 175, (512) 239-2496; REGIONAL OFFICE: Dallas-Fort Worth Regional Office, 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-200704190

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 11, 2007



#### Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDPRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water

Code (TWC), §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. The commission will consider any written comments received; and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Maxim Farm Egg Co. Inc.; DOCKET NUMBER: 2006-2244-AIR-E; TCEQ ID NUMBER: RN102612520; LOCATION: 580 Maxim Drive, Wharton County, Texas; TYPE OF FACILITY: egg production plant; RULES VIOLATED: 30 TAC §116.110(a)(1) and Texas Health and Safety Code (THSC), §382.085(b) and §382.0518(a), by failing to obtain authorization for a poultry incinerator; PENALTY: \$4,160; STAFF ATTORNEY: Shawn Slack, Litigation Division, MC 175, (512) 239-0063; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(2) COMPANY: Nhan Q. Ha dba 7-7 Cleaners and Alterations; DOCKET NUMBER: 2006-1445-DCL-E; TCEQ ID NUMBER: RN103041158; LOCATION: 1201 Westheimer Road, Suite G, Houston, Harris County, Texas; TYPE OF FACILITY: dry cleaning drop station; RULES VIOLATED: 30 TAC §337.11(e), and THSC, §374.102, by failing to renew the facility's registration by completing and submitting the required registration form to the TCEQ; PENALTY: \$1,209; STAFF ATTORNEY: Ben Thompson, Litigation Division, MC 175, (512) 239-1297; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200704188  
Mary R. Risner  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: September 11, 2007

#### Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section

7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: COMPANY: Joe Boy Johnson; DOCKET NUMBER: 2005-1582-IHW-E; TCEQ ID NUMBER: RN104674262; LOCATION: approximately 1.5 miles north of the intersection of County Road 128 and County Road 148, near Melvin, McCulloch County, Texas; TYPE OF FACILITY: property; RULES VIOLATED: 30 TAC §335.2(a), §335.4 and 40 CFR §27.01, by failing to properly dispose of hazardous waste in an authorized manner protective of human health and the environment; PENALTY: \$2,500; STAFF ATTORNEY: Lena Roberts, Litigation Division, MC 175, (512) 239-0019; REGIONAL OFFICE: San Angelo Regional Office, 622 South Oakes, Suite K, San Angelo, Texas 76903-7013, (915) 655-9479.

TRD-200704185  
Mary R. Risner  
Director, Litigation Division  
Texas Commission on Environmental Quality  
Filed: September 11, 2007

#### Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required

to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Mohammad A. Ghene dba Super Food Mart 12; DOCKET NUMBER: 2005-0023-PST-E; TCEQ ID NUMBER: RN102430840; LOCATION: 302 West Duval Street, Troup, Smith County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(c)(4)(C) and Texas Water Code (TWC), §26.3475(d), by failing to perform an operability test on the cathodic protection system for the underground storage tank (UST) system at a frequency of at least once every three years; 30 TAC §334.72(3), by failing to report to the TCEQ within 24 hours the monitoring results associated with vapor monitoring; and 30 TAC §334.74, by failing to conduct an investigation and confirmation steps within 30 days of discovery of a suspected release; PENALTY: \$14,500; STAFF ATTORNEY: Mary Hammer, Litigation Division, MC 175, (512) 239-2496; REGIONAL OFFICE: Tyler Regional Office, 2916 Teague Drive, Tyler, Texas 75701-3756, (903) 535-5100.

(2) COMPANY: Westex Capital Ltd. dba Corner Store; DOCKET NUMBER: 2006-0411-PST-E; TCEQ ID NUMBER: RN102781952; LOCATION: 342 East Main Street, Yorktown, Dewitt County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.49(a)(2) and TWC, §26.3475(d), by failing to have the corrosion protection system operating in a manner that will ensure that corrosion protection will be continuously provided to all underground metal components of the UST system; PENALTY: \$2,500; STAFF ATTORNEY: Robert Mosley, Litigation Division, MC 175, (512) 239-0627; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

TRD-200704187

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 11, 2007



#### Notice of Opportunity to Comment on Settlement Agreements of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may

withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: DCP Midstream, LP; DOCKET NUMBER: 2006-1576-AIR-E; TCEQ ID NUMBER: RN100210822; LOCATION: 7202 County Road 16, Bishop, Jim Wells County, Texas; TYPE OF FACILITY: gas processing plant; RULES VIOLATED: 30 TAC §116.115(c), Permit No. 73507, Special Condition No. 1 and Texas Health and Safety Code (THSC), §382.085(b), by failing to prevent unauthorized emissions. Since these emissions were avoidable and inadequately reported, DCP Midstream Energy failed to meet the demonstrations necessary for an affirmative defense in 30 TAC §101.222; 30 TAC §101.201(a)(1) and THSC, §382.085(b), by failing to submit initial notification for the February 28, 2006 emissions event within 24 hours of discovery; 30 TAC §116.115(c), Permit No. 73507, Special Condition No. 1 and THSC, §382.085(b), by failing to prevent unauthorized emissions. Since these emissions were avoidable and inadequately reported, DCP Midstream Energy failed to meet the demonstrations necessary for an affirmative defense in 30 TAC §101.222; 30 TAC §101.201(a)(1) and THSC, §382.085(b), by failing to submit initial notification for the October 18, 2005, emissions event within 24 hours of discovery; 30 TAC §116.115(c), Permit No. 73507, Special Condition No. 1 and THSC, §382.085(b), by failing to prevent unauthorized emissions. Since these emissions were avoidable and inadequately reported, DCP Midstream Energy failed to meet the demonstrations necessary for an affirmative defense in 30 TAC §101.222; and 30 TAC §101.211(a) and THSC, §382.085(b), by failing to give notification for a scheduled startup activity (incident number 67924) prior to the commencement of the activity; PENALTY: \$93,009; Supplemental Environmental Project offset amount of \$46,504 applied to the Texas Association of Resource Conservation & Development Areas, Inc.; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Corpus Christi Regional Office, 6300 Ocean Drive, Suite 1200, Corpus Christi, Texas 78412-5503, (361) 825-3100.

(2) COMPANY: Hoe Water Supply Corporation; DOCKET NUMBER: 2006-0405-PWS-E; TCEQ ID NUMBER: RN101204220; LOCATION: 24828 Huffsmith Road, Tomball, Harris County, Texas; TYPE OF FACILITY: public water system; RULES VIOLATED: 30 TAC §291.93(3), by failing to submit to the executive director a planning report that clearly explains how the public retail utility will provide the service demands required of a retail public utility which possess a certificate of public convenience and necessity and has reached 85% of total capacity; 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; 30 TAC §290.43(e), by failing to



maintain the intruder resistant fence; 30 TAC §290.46(m)(1)(B), by failing to inspect the system pressure tank on an annual basis; and 30 TAC §290.46(m)(1)(A), by failing to inspect the system storage tank on an annual basis; PENALTY: \$629; STAFF ATTORNEY: Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200704189

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 11, 2007



### Notice of Opportunity to Comment on Shut-Down Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (commission) staff is providing an opportunity for written public comment on the listed Shutdown Orders (SOs). Texas Water Code (TWC), §26.3475 authorizes the commission to order the shutdown of any underground storage tank (UST) system found to be noncompliant with release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection regulations of the commission, until such time as the owner/operator brings the UST system into compliance with those regulations. The commission proposes a SO after the owner or operator of a UST facility fails to perform required corrective actions within 30 days after receiving notice of the release detection, spill and overflow prevention, and/or, after December 22, 1998, cathodic protection violations documented at the facility. In accordance with TWC, §7.075, this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **October 22, 2007**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a SO if a comment discloses facts or considerations that indicate that the consent to the proposed SO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed SO is not required to be published if those changes are made in response to written comments.

Copies of each of the proposed SO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the SO should be sent to the attorney designated for the SO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on October 22, 2007**. Written comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission attorneys are available to discuss the SOs and/or the comment procedure at the listed phone numbers; however, comments on the SOs should be submitted to the commission in **writing**.

(1) COMPANY: Martin Adelakun dba National Mini Mart; DOCKET NUMBER: 2006-1789-PST-E; TCEQ ID NUMBER: RN101735496; LOCATION: 6643 Cullen Boulevard, Houston, Harris County, Texas; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULES VIOLATED: 30 TAC §334.50(b)(2)(A)(i)(III), (b)(2)(A)(ii)(I), (b)(2)(A)(ii)(II), and §334.50(d)(1)(B)(ii) and Texas Water Code, §26.3475(a) and (c)(1), by failing to test the line leak detectors at least once per year for performance and operational reliability, and failing to provide proper release detection for the piping

associated with the underground storage tanks (USTs), and by failing to conduct reconciliation of detailed inventory control records at least once each month sufficiently accurate to detect a release which equals or exceeds the sum of 1.0 percent of the total substance flow through for the month plus 130 gallons; and 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as a motor fuel; PENALTY: \$24,600; STAFF ATTORNEY: Shawn Slack, Litigation Division, MC 175, (512) 239-0063; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200704186

Mary R. Risner

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: September 11, 2007



### Notice of Water Quality Applications

The following notices were issued during the period of August 30, 2007 through September 7, 2007.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to Texas Commission on Environmental Quality (TCEQ), Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, **WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE**.

#### INFORMATION SECTION

CITY OF ANNA has applied for a major amendment to TPDES Permit No. WQ0011283001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 500,000 gallons per day to a daily average flow not to exceed 975,000 gallons per day at Outfall 002. The current permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 250,000 gallons per day at Outfall 001 and a daily average flow not to exceed 500,000 gallons per day at Outfall 002. The facility is located approximately 4,000 feet west of State Highway 5 and 4,600 feet south of Farm-to-Market Road 455 in Collin County, Texas.

THE CITY OF ATLANTA has applied for a renewal of TPDES Permit No. WQ0010338001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located approximately 0.25 mile east of the intersection of State Highway 77 and State Highway 43, south of the City of Atlanta in Cass County, Texas.

BRIDGESTONE MUNICIPAL UTILITY DISTRICT has applied for a renewal of TPDES Permit No. WQ0011835001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,500,000 gallons per day. The facility is located at 21106 Slippery Rock, Spring, Texas, on the south bank of Seals Gully, approximately 2000 feet upstream of the point where Spring-Cypress Road crosses Seals Gully in Harris County, Texas.

CHEVRON PHILLIPS CHEMICAL COMPANY LP which operates the Pasadena Plastics Complex, a petrochemical and plastics manufacturing plant, has applied for a major amendment to TPDES Permit No. WQ0000815000 to authorize the addition of Outfalls 005, 006 and 007 for the discharge of storm water runoff from a rail yard and loading/unloading area; and the discharge of hydrostatic test water at Outfall 001. The current permit authorizes the discharge of process wastewater, cooling tower blowdown, boiler blowdown, sanitary wastewater, and storm water runoff at a daily average dry weather flow not to ex-



ceed 4,300,000 gallons per day via Outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfall 002, 003, and 004. The proposed draft permit authorizes the discharge of process wastewater, cooling tower blowdown, boiler blowdown, sanitary wastewater, storm water runoff, and hydrostatic test water at a daily average dry weather flow not to exceed 4,300,000 gallons per day via Outfall 001; and storm water runoff on an intermittent and flow variable basis via Outfall 002, 003, and 004; and storm water runoff from a rail yard and plastic pellet railcar loading/unloading area on an intermittent and flow variable basis via Outfall 005, 006 and 007. The facility is located at 1400 Jefferson Road, on the south side of the Houston Ship Channel and approximately 0.5 miles west of the mouth of Green's Bayou, Harris County, Texas. The effluent is discharged to an unnamed ditch; thence to Houston Ship Channel/Buffalo Bayou Tidal in Segment No. 1007 of the San Jacinto River Basin. The unclassified receiving waters have no significant aquatic life use for the unnamed ditch. The designated uses for Segment No. 1007 are navigation and industrial water supply

CHEVRON U.S.A. INC. which operates Galena Park Terminal, has applied for a renewal of TPDES Permit No. WQ0001745000, which authorizes the discharge of storm water, truck rinse water, drainage from truck loading areas and diked spill containment areas, tank water draws (including hydrostatic tank test water and drawdown from underground storage tanks) and associated groundwater from remediation activities at a daily average flow not to exceed 10,000 gallons per day via Outfall 002; and storm water runoff from diked tank areas on an intermittent and flow variable basis via Outfall 003 and 004. The facility is located at 12523 American Petroleum Road approximately 0.5 mile north of the intersection of Federal Road and Clinton Drive in the City of Galena Park, Harris County, Texas. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

FAR HILLS UTILITY DISTRICT has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014555002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 700,000 gallons per day. The facility will be located on the east side of Cude Cemetery Road approximately 1,800 feet south of Farm-to-Market Road 830 in Montgomery County, Texas.

CITY OF HOUSTON has applied for a renewal of TPDES Permit No. WQ0010495010, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located approximately 4,000 feet north and 500 feet west of the intersection of Loop 610 and Buffalo Bayou in Harris County, Texas.

CITY OF MEADOWS PLACE has applied for a renewal of TPDES Permit No. WQ0011039001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,500,000 gallons per day. The facility is located approximately 5,000 feet west of the Southwest Freeway (U.S. Highway 59) and 1,000 feet south of Keegans Bayou on the Harris County-Fort Bend County line in Fort Bend County, Texas.

MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 24 has applied for a renewal of TPDES Permit No. WQ0014116001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 400,000 gallons per day. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The facility is located 0.5 mile northwest of the point where White Oak Creek leaves

Montgomery County and approximately 2.5 miles east of U.S. Highway 59 in Montgomery County, Texas.

PEGASUS POLYMERS BENELUX INC. which operates Muehlstein Compound Products, has applied for a renewal of TPDES Permit No. WQ0002294000, which authorizes the discharge of treated process wastewater and utility wastewater at a daily average flow not to exceed 20,000 gallons per day via Outfall 001; rail car and silo wash water and storm water on an intermittent and flow variable basis via Outfall 002; storm water on an intermittent and flow variable basis via Outfall 003; and treated domestic wastewater at a daily average flow not to exceed 6,000 gallons per day via outfall 004. The facility is located at 13001 Alameda Road approximately 0.5 mile north of the intersection of State Highway 521 and Alameda Genoa Road in the City of Houston, Harris County, Texas.

PUBLIC SERVICE COMPANY OF OKLAHOMA which operates the Oklaunion Power Station, has applied for a renewal of TPDES Permit No. WQ0002574000, which authorizes the discharge of coal pile runoff; wash water from the reclaim sump, rotary car dumper, and service area; and plant area storm water runoff on an intermittent and flow variable basis via Outfall 001. The facility is located approximately three miles south-southeast of the intersection of Farm-to-Market Road 433 and Farm-to-Market Road 3430 near the town of Oklaunion, Wilbarger County, Texas.

CITY OF ROMA has applied for a renewal of TPDES Permit No. WQ0011212002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,000,000 gallons per day. The facility is located approximately 900 feet south of U.S. Highway 83, approximately 4,900 feet southeast of the intersection of U.S. Highway 83 and the U.S. Customs Toll Bridge Road in Starr County, Texas.

SET ENVIRONMENTAL, INC. which operates an industrial solid waste management facility, has applied for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0004123000 to authorize the discharge of storm water associated with industrial activity on an intermittent and flow variable basis via Outfall 001. The facility is located at 5743 Cheswood Street, in the City of Houston, Harris County, Texas

TEMPLE-INLAND FOREST PRODUCTS CORPORATION which operates an integrated forest products manufacturing facility, has applied for a major amendment to TPDES Permit No. WQ0001820000 to authorize an additional Outfall 006 (formally Outfall 001 in TPDES Permit No. 03848). The application also includes a request for a temporary variance to the existing water quality standards to develop a site specific water quality standard for aluminum for the Little Sandy Creek in Segment No. 0610 of the Neches River Basin. The current permit authorizes the discharge of wastewater (including log soak water, condensate, cooling water, boiler and scrubber blowdown, wet decking water, area washdown, and wastewater from the collection sump associated with Outfall 002) and storm water at a continuous and flow variable basis via Outfall 001; wastewaters (including non-contact cooling water, chain lubrication water, area wash down, and wet storage pond overflow) and storm water runoff on an intermittent and flow variable basis via Outfall 002; and storm water runoff on an intermittent and flow variable basis via Outfall 003. The facility is located north of Farm-to-Market Road (FM) 2426, approximately 1/4 mile east of the intersection of FM 2426 and FM 1 in the City of Pineland, Sabine County, Texas.

TEXAS CONFERENCE ASSOCIATION OF SEVENTH-DAY ADVENTISTS has applied for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0014816001, to authorize the discharge of treated domestic wastewater at a daily av-

erage flow not to exceed 48,000 gallons per day. The facility will be located in close proximity to Whitney Lake, approximately 2,380 feet north of Farm-to-Market Road 2841, and approximately 4 miles north of the Town of Laguna Park and 14.5 miles southeast of the City of Meridian in Bosque County, Texas.

WALL INDEPENDENT SCHOOL DISTRICT has applied for a major amendment to Permit No. WQ0013421001, to authorize an increase in the disposal of treated domestic wastewater from a daily average flow not to exceed 10,000 gallons per day in the interim phase to a daily average flow not to exceed 18,000 gallons per day in the final phase. The applicant is also requesting to change the method of disposal from spray irrigation in the interim phase to a subsurface area drip dispersal system in the final phase and to increase the acreage irrigated from 1.5 acres to 4.132 acres. The wastewater treatment facility and disposal site are located on the south side of the Wall Independent School District campus, approximately 0.5 mile south of the intersection of Loop 570 and Hawk Avenue in the community of Wall, in Tom Green County, Texas.

To view the complete issued notices, view the notices on our web site at [www.tceq.state.tx.us/comm\\_exec/cc/pub\\_notice.html](http://www.tceq.state.tx.us/comm_exec/cc/pub_notice.html) or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, toll-free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at [www.tceq.state.tx.us](http://www.tceq.state.tx.us). Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200704208

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 12, 2007



### Request for Nominations

The Texas Commission on Environmental Quality (TCEQ) is requesting nominations for seven individuals to serve on the Municipal Solid Waste Management and Resource Recovery Advisory Council (Council) for the following positions. The appointments will be made by the TCEQ Commissioners.

1. Two representatives from the "general public" (one position expires August 31, 2011; the 2nd position expires August 31, 2013). To qualify for this position, the individual must not qualify for any of the other sixteen Council categories.
2. A representative from a solid waste management organization composed primarily of commercial operators (expires August 31, 2013).
3. A person who is experienced in the management and operation of a composting or recycling facility or an educator with knowledge of the design and management of solid waste facilities (expires August 31, 2013).
4. An elected official from a city with a population between 25,000 and 100,000 (expires August 31, 2013).
5. An elected official from a municipality with a population fewer than 25,000 (expires August 31, 2011).
6. A representative of the financial community (expires August 31, 2013).

The Council was created by the 69th Legislature in 1983. Members represent various interests, which include city and county solid waste agencies, public solid waste districts or authorities, commercial solid waste landfills, planning regions, environmental perspectives, city and county governments, financial advisors, registered waste tire processors, professional engineers, solid waste professionals, composting/recycling companies and the general public representatives.

Upon request from the TCEQ Commissioners, the Council reviews and evaluates the effect of state policies and programs on municipal solid waste management; makes recommendations on matters relating to municipal solid waste management; recommends legislation to encourage the efficient management of municipal solid waste; recommends policies for the use, allocation, or distribution of the planning fund; and recommends special studies and projects to further the effectiveness of municipal solid waste management and recovery for the state of Texas.

The Council members are required by law to hold at least one meeting every three months. The meetings usually last one day and are held in Austin, Texas. Limited travel funds may be available. Additional information about the Council is available at: [http://www.tceq.state.tx.us/permitting/waste\\_permits/advgroups/msw\\_advCouncil.html](http://www.tceq.state.tx.us/permitting/waste_permits/advgroups/msw_advCouncil.html).

To nominate an individual: 1) ensure the individual is qualified for the position which he/she is being considered; 2) submit a biographical summary which includes work experience; and 3) provide the nominee a copy of this request. The nominee needs to submit a letter indicating his/her agreement to serve, if appointed.

All applications and nominations should clearly indicate for which position(s) they wish to be considered and that they meet the requirements for the specific position. If an applicant is qualified for more than one position, then they may apply for more than one position. If applying for "a representative for the general public" position, applicants must not have any conflicts of interest and will be asked for additional information.

Evaluations will be made based upon all materials submitted and solid waste experience. Materials to be submitted may include a resumé, biography, summary of experience, list of publications, recognitions/awards, letters of reference, etc.

The deadline for written nominations and letters from nominees must be received by the TCEQ by 5:00 p.m., on **October 19, 2007**. The appointments will be considered at a future Commissioner's Agenda or Work Session in Austin, Texas.

Please submit all correspondence to: Steve Hutchinson, Waste Permits Division, TCEQ, P.O. Box 13087, MC 126, Austin, Texas 78711-3087 or fax (512) 239-2007. Questions regarding the Council can be directed to Mr. Hutchinson at (512) 239-6716, or e-mail address: [shutchin@tceq.state.tx.us](mailto:shutchin@tceq.state.tx.us).

TRD-200704166

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: September 10, 2007



## Texas Health and Human Services Commission

### Public Notice

The Texas Health and Human Services Commission announces its intent to submit Amendment 783, Transmittal Number TX 07-024, to the Texas State Plan for Medical Assistance, under Title XIX of the Social

Security Act. The purpose of this amendment is to add language to the current Texas Medicaid State Plan for Early Childhood Intervention (ECI) Targeted Case Management Services (TCM) that states the reimbursement rate in effect on September 30, 2007 will remain in effect from October 1, 2007, through September 30, 2009. There were no additional appropriations provided by the 80th Texas Legislature, Regular Session, 2007 to allow the recalculation of this rate for this service. The proposed amendment is effective October 1, 2007.

The proposed amendment will have no fiscal impact to the state or the federal budgets.

Interested parties may obtain copies of the proposed amendment by contacting Christina Dyer, Rate Analyst, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 85200, H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1747; by facsimile at (512) 491-1998; or by e-mail at christina.dyer@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-200704212

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: September 12, 2007



#### Public Notice

The Texas Health and Human Services Commission announces its intent to submit Amendment 801, Transmittal Number TX 07-042, to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The purpose of this amendment is to add language to the current Texas Medicaid State Plan for Mental Health Rehabilitative Services that states the reimbursement rate in effect on September 30, 2007, will remain in effect from October 1, 2007 through September 30, 2009. There were no additional appropriations provided by the 80th Texas Legislature, Regular Session, 2007 to allow the recalculation of the rate for this service. The proposed amendment is effective October 1, 2007.

The proposed amendment will have no fiscal impact to the state or the federal budgets.

Interested parties may obtain copies of the proposed amendment by contacting Christina Dyer, Rate Analyst, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 85200, H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1747; by facsimile at (512) 491-1998; or by e-mail at christina.dyer@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-200704209

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: September 12, 2007



#### Public Notice

The Texas Health and Human Services Commission announces its intent to submit Amendment 802, Transmittal Number TX 07-043, to the Texas State Plan for Medical Assistance, under Title XIX of the Social

Security Act. The purpose of this amendment is to add language to the current Texas Medicaid State Plan for Mental Retardation Case Management stating that the reimbursement rate in effect on September 30, 2007, will continue through September 30, 2009. There were no additional appropriations provided by the 80th Texas Legislature, Regular Session, 2007 to allow the recalculation of this rate for this service. The proposed amendment is effective October 1, 2007.

The proposed amendment will have no fiscal impact to the state or the federal budgets.

Interested parties may obtain copies of the proposed amendment by contacting Christina Dyer, Rate Analyst, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 85200, H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1747; by facsimile at (512) 491-1998; or by e-mail at christina.dyer@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-200704210

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: September 12, 2007



#### Public Notice

The Texas Health and Human Services Commission announces its intent to submit Amendment 803, Transmittal Number TX 07-044, to the Texas State Plan for Medical Assistance, under Title XIX of the Social Security Act. The purpose of this amendment is to add language to the current Texas Medicaid State Plan for Mental Health Targeted Case Management that states the reimbursement rate in effect on September 30, 2007, will continue to be in effect from October 1, 2007 through September 30, 2009. There were no additional appropriations provided by the 80th Texas Legislature, Regular Session, 2007 to allow the recalculation of this rate for this service. The proposed amendment is effective October 1, 2007.

The proposed amendment will have no fiscal impact to the state or the federal budgets.

Interested parties may obtain copies of the proposed amendment by contacting Christina Dyer, Rate Analyst, by mail at the Rate Analysis Department, Texas Health and Human Services Commission, P.O. Box 85200, H-400, Austin, Texas 78708-5200; by telephone at (512) 491-1747; by facsimile at (512) 491-1998; or by e-mail at christina.dyer@hhsc.state.tx.us. Copies of the proposal will also be made available for public review at the local offices of the Texas Department of Aging and Disability Services.

TRD-200704211

Steve Aragón

Chief Counsel

Texas Health and Human Services Commission

Filed: September 12, 2007



#### Department of State Health Services

##### Licensing Actions for Radioactive Materials

The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Baytown	Rashid M Siddiqi MD PA	L06097	Baytown	00	08/13/07
Dallas	Southwestern Testing Laboratories LLC DBA STL Engineers	L06100	Dallas	00	08/23/07
El Paso	EP Medical Imaging Technology LP DBA El Paso Medical Imaging Technology	L06095	El Paso	00	08/16/07
Plano	Doctors of Internal Medicine	L06086	Plano	00	08/21/07
Port Arthur	Huntsman Corporation	L06107	Port Arthur	00	08/14/07
San Angelo	Miltiadis Leon MD	L06102	San Angelo	00	08/16/07
Throughout TX	Techwell Surveys Corp	L06089	Odessa	00	08/22/07
Throughout TX	Infrastructure Services	L06099	San Antonio	00	08/16/07

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Alvin	Solutia Inc	L00219	Alvin	76	08/20/07
Amarillo	Amarillo Heart Group LLP	L04697	Amarillo	23	08/28/07
Arlington	Texas Oncology PA DBA Texas Cancer Center Arlington	L05116	Arlington	18	08/13/07
Austin	ARA Imaging	L05862	Austin	20	08/16/07
Austin	Austin Diagnostic Clinic	L05646	Austin	08	08/23/07
Austin	Austin Eye Clinic Association	L01642	Austin	13	08/14/07
Austin	Austin Nuclear Pharmacy Inc.	L05591	Austin	07	08/15/07
Austin	Austin Radiological Association	L00545	Austin	128	08/16/07
Austin	Daughters of Charity Health Svcs of Austin DBA Brackenridge Hospital	L00268	Austin	96	08/24/07
Austin	Texas Oncology PA DBA South Austin Cancer Center	L05108	Austin	17	08/16/07
Beaumont	E I Dupont De Nemours & Co Inc.	L00517	Beaumont	77	08/16/07
Beaumont	Exxonmobil Oil Corporation	L00603	Beaumont	79	08/14/07
Bedford	Columbia North Hills Outpatient Imaging Center Subsidiary LP DBA North Hills Outpatient Imaging Center	L03455	Bedford	43	08/22/07
Bedford	Cor Specialty Associates of North Texas	L05062	Bedford	22	08/23/07
Big Spring	Manish Shroff M.D.	L05893	Big Spring	01	08/28/07
Bowie	Bowie Hospital Authority DBA Bowie Memorial Hospital	L02327	Bowie	18	08/24/07
Carrollton	Medical Edge Healthcare Group PA DBA Heart First	L05555	Carrollton	14	08/13/07
Cleburne	Johns Manville International Inc	L01482	Cleburne	19	08/15/07
Cleveland	Cleveland Regional Medical Center LP	L02055	Cleveland	38	08/20/07
College Station	BCS Heart LLP	L04890	College Station	16	08/27/07
College Station	College Station Hospital LP DBA College Station Medical Center	L02559	College Station	64	08/20/07
Crockett	East Texas Medical Center Crockett	L01411	Crockett	31	08/14/07
Dallas	Dallas Cardiology Associates PA DBA Heartplace East	L04607	Dallas	52	08/21/07
Dallas	Heart Consultants of North Texas	L05898	Dallas	03	08/27/07
Dallas	Landmark Radiation Dallas LP	L06075	Dallas	02	08/21/07
Dallas	Maxum Health Services Corp DBA Insight Diagnostic Center	L05904	Dallas	02	08/27/07

## AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

Location	Name	License #	City	Amend- ment #	Date of Action
Dallas	Tenet Health System Hospitals Dallas Inc DBA RHD Memorial Medical Center	L02314	Dallas	55	08/20/07
Decatur	Wise Regional Health System	L02382	Decatur	29	08/17/07
Denton	Trace Life Sciences Inc.	L05435	Denton	14	08/15/07
Desoto	Vincent P Barr MD	L05899	Desoto	01	08/30/07
El Paso	Blood Systems Inc DBA United Blood Services	L05841	El Paso	05	08/30/07
El Paso	Cardiology Care Consultants	L05045	El Paso	06	08/20/07
El Paso	Center for Intergrative Cancer Medicine PA	L05880	El Paso	02	08/20/07
El Paso	El Paso Eye Surgeons PA	L01954	El Paso	11	08/24/07
EL Paso	Texas Oncology PA DBA El Paso Cancer Treatment Center	L05774	El Paso	06	08/15/07
El Paso	The University of Texas at El Paso	L00159	El Paso	56	08/24/07
Fort Worth	Baylor All Saints Medical Center	L02212	Fort Worth	77	08/14/07
Fort Worth	Baylor All Saints Medical Center DBA Baylor Medical Center at Southwest Fort Worth	L04105	Fort Worth	27	08/14/07
Fort Worth	Consultants in Radiology PA	L05014	Fort Worth	22	08/23/07
Fort Worth	Jaime H Castro MD	L03751	Fort Worth	08	08/30/07
Fort Worth	Precision Energy Services Inc.	L00747	Fort Worth	77	08/21/07
Garland	Baylor Medical Center at Garland	L01565	Garland	47	08/20/07
Gatesville	Coryell County Memorial Hospital Authority DBA Coryell Memorial Hospital	L02391	Gatesville	30	08/28/07
Gilmer	East Texas Medical Center Gilmer	L05959	Gilmer	02	08/20/07
Harlingen	Heart Clinic PLLC	L04514	Harlingen	19	08/28/07
Harlingen	Texas Oncology PA DBA South Texas Cancer Center Harlingen	L00154	Harlingen	33	08/28/07
Hillsboro	NHCl of Hillsboro Inc DBA Hill Regional Hospital	L01949	Hillsboro	34	08/27/07
Houston	Advanced Cardiovascular Care Center PA	L05413	Houston	04	08/20/07
Houston	Baylor College of Medicine	L00680	Houston	94	08/16/07
Houston	Cambridge Heart Center PA	L05623	Houston	07	08/23/07
Houston	Cardiovascular Clinic of Texas	L04963	Houston	08	08/20/07
Houston	Columbia/HCA Healthcare Corp DBA Spring Branch Medical Center	L02473	Houston	62	08/27/07
Houston	Encysive Pharmaceuticals Inc	L04568	Houston	18	08/22/07
Houston	Houston Cyclotron Partners LP DBA Cyclotope	L05585	Houston	11	08/22/07
Houston	Houston Northwest Medical Center	L02253	Houston	71	08/13/07
Houston	Northwest Diagnostic Clinic PA	L05814	Houston	04	08/20/07
Houston	PETNET Houston LLC DBA PETNET Houston LLC	L05542	Houston	14	08/28/07
Houston	TH Healthcare LTD DBA Park Plaza Hospital	L02071	Houston	54	08/27/07
Houston	The Methodist Hospital	L00457	Houston	153	08/16/07
Huntsville	Sam Houston State University	L00873	Huntsville	19	08/24/07
Katy	Memorial Hermann Hospital System DBA Memorial Hermann Katy Hospital	L03052	Katy	50	08/28/07
Laredo	Laredo Cardiovascular Consultants DBA Laredo Cardiovascular Consultants PA	L04687	Laredo	15	08/20/07
Laredo	Laredo Cardiovascular Consultants DBA Laredo Cardiovascular Consultants PA	L04687	Laredo	16	08/24/07
Lubbock	Cardinal Health	L02737	Lubbock	54	08/24/07
Lubbock	Covenant Medical Group DBA Cardiology Associates Covenant Medical Group	L04468	Lubbock	20	08/16/07

## AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

Location	Name	License #	City	Amend- ment #	Date of Action
Lubbock	Methodist Diagnostic Imaging DBA Covenant Diagnostic Imaging	L03948	Lubbock	39	08/15/07
Lufkin	Piney Woods Healthcare System DBA Woodland Heights Medical Center	L01842	Lufkin	54	08/27/07
McAllen	McAllen Hospitals LP DBA McAllen Medical Center	L01713	McAllen	84	08/20/07
Midland	American X-Ray & Inspection Services Inc DBA AXIS Inc	L05974	Midland	05	08/15/07
Mount Pleasant	Titus County Memorial Hospital	L02921	Mount Pleasant	24	08/14/07
Nacogdoches	Memorial Hospital	L01071	Nacogdoches	42	08/17/07
New Braunfels	Cemex Inc.	L02809	New Braunfels	29	08/21/07
Odessa	Ector County Hospital District DBA Medical Center Hospital	L01223	Odessa	85	08/15/07
Odessa	Ector County Hospital District DBA Medical Center Hospital	L01223	Odessa	86	08/23/07
Odessa	Odessa Regional Hospital LP DBA Odessa Regional Medical Center	L04885	Odessa	11	08/24/07
Olney	Olney Hamilton Hospital District DBA Hamilton Hospital	L03226	Olney	18	08/15/07
Pampa	American Diagnostic Medical Group	L06033	Pampa	02	08/24/07
Paris	Advanced Heart Care PA	L05290	Paris	21	08/16/07
Pasadena	BASF Corporation	L05782	Pasadena	03	08/29/07
Pasadena	David S Hamer MD PA DBA Southeast Houston	L05364	Pasadena	05	08/27/07
Pasadena	Oxy Vinyls LP	L02257	Pasadena	22	08/15/07
Plano	Cardiovascular Consultants of North Texas DBA Cardiovascular Consultants Plano	L05690	Plano	05	08/21/07
Port Arthur	BASF Fina Petrochemicals LP	L05914	Port Arthur	02	08/15/07
Port Arthur	The Premcor Refining Group Inc.	L04871	Port Arthur	13	08/28/07
San Angelo	San Angelo Hospital LP DBA San Angelo Community Medical Center	L02487	San Angelo	42	08/20/07
San Antonio	Cardiovascular Associates of San Antonio PA	L04996	San Antonio	13	08/24/07
San Antonio	Christus Santa Rosa Health Care	L02237	San Antonio	94	08/24/07
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	232	08/13/07
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	233	08/20/07
San Antonio	Methodist Healthcare System of San Antonio DBA Methodist Hospital	L00594	San Antonio	234	08/23/07
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	158	08/21/07
San Antonio	South Texas Radiology Imaging Centers	L03518	San Antonio	59	08/21/07
San Antonio	William Craig MD PA	L05378	San Antonio	08	08/24/07
Silsbee	Meadwestvaco Texas LLP	L01095	Silsbee	55	08/23/07
Sugar Land	Methodist Sugar Land Hospital	L05788	Sugar Land	11	08/22/07
Sugar Land	Stillmeadow Inc.	L04497	Sugar Land	14	08/27/07
Texas City	International Industrial Fab Inc	L04935	Texas city	22	08/23/07
Trophy Club	Trophy Club Medical Center LP	L05909	Trophy Club	01	08/27/07
The Woodlands	Advanced Cardiovascular Care Center PA	L05413	The Woodlands	04	08/20/07
Throughout TX	Global X-Ray & Testing Corp.	L03663	Aransas Pass	103	08/21/07
Throughout TX	Lower Colorado River Authority	L02738	Austin	41	08/29/07
Throughout TX	KXR Inspection Inc.	L01074	Barker	103	08/15/07
Throughout TX	Gulf Coast Weld Spec	L05426	Beaumont	61	08/16/07
Throughout TX	Gulf Coast Weld Spec	L05426	Beaumont	62	08/23/07
Throughout TX	Brazos Valley Inspection Services Inc	L02859	Bryan	60	08/30/07
Throughout TX	ATC Group Services Inc. DBA ATC Associates Inc.	L05920	Carrollton	01	08/28/07

## AMENDMENTS TO EXISTING LICENSES ISSUED (Continued):

Location	Name	License #	City	Amendment #	Date of Action
Throughout TX	National Inspection Services LLC	L05930	Crowley	14	08/29/07
Throughout TX	Peachtree Construction Co	L05401	Fort Worth	09	08/15/07
Throughout TX	Freese and Nichols Inc.	L04301	Fort Worth	15	08/16/07
Throughout TX	Precision Energy Services Inc.	L04286	Fort Worth	69	08/16/07
Throughout TX	HVJ Associates Inc	L03813	Houston	33	08/15/07
Throughout TX	Pathfinder Energy Services Inc.	L05236	Houston	15	08/22/07
Throughout TX	Petrochem Inspection Services Inc.	L04460	Houston	79	08/16/07
Throughout TX	Petrochem Inspection Services Inc.	L04460	Houston	80	08/29/07
Throughout TX	Scientific Drilling International	L05105	Houston	09	08/21/07
Throughout TX	Texas Port Recycling LP	L06101	Houston	01	08/21/07
Throughout TX	Geotest Engineering Inc.	L02735	Houston	45	08/21/07
Throughout TX	Metco	L03018	Houston	174	08/20/07
Throughout TX	Weldsonix Inc.	L05718	Houston	33	08/16/07
Throughout TX	Geoscience Engineering & Testing Inc	L05180	Houston	07	08/15/07
Throughout TX	Oscs Inc	L05813	Keene	06	08/28/07
Throughout TX	Enertech Wireline Services LP	L05738	Midland	11	08/22/07
Throughout TX	T C Inspection Inc.	L05833	Oyster Creek	25	08/27/07
Throughout TX	Turner Industries Group LLC DBA Pipe Fabrication Division Texas Op	L05237	Paris	16	08/20/07
Throughout TX	Conam Inspection & Engineering Inc.	L05010	Pasadena	129	08/16/07
Throughout TX	Conam Inspection & Engineering Inc.	L05010	Pasadena	130	08/30/07
Throughout TX	Techcorr USA LLC	L05972	Pasadena	29	08/16/07
Throughout TX	Texas Gamma Ray LLC	L05561	Pasadena	77	08/22/07
Throughout TX	Turner Specialty Services LLC	L05417	Pasadena	29	08/15/07
Throughout TX	Catch A Fault	L02725	Ponder	21	08/29/07
Throughout TX	Sunmount Corporation	L03799	Roanoke	15	08/28/07
Throughout TX	All American Inspection Inc.	L01336	San Antonio	58	08/14/07
Throughout TX	All American Inspection Inc.	L01336	San Antonio	59	08/21/07
Throughout TX	All American Inspection Inc.	L01336	San Antonio	60	08/22/07
Throughout TX	GCT Inspection Inc.	L02378	South Houston	98	08/16/07
Throughout TX	Schlumberger Technology Corporation	L01833	Sugar Land	141	08/15/07
Throughout TX	Soloco Texas LP	L04708	Winnie	15	08/29/07
Tyler	Nutech Inc.	L04274	Tyler	62	08/29/07
Waco	Baylor University	L00343	Waco	42	08/28/07
Yoakum	Yoakum Community Hospital	L05913	Yoakum	01	08/28/07

## RENEWAL OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Odessa	Cemex Inc.	L00118	Odessa	27	08/21/07
San Antonio	Metro North Cardiovascular Associates PA DBA Metro North Clinic	L05235	San Antonio	17	08/21/07
Tomball	BJ Services Company USA	L02684	Tomball	56	08/15/07

## TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Houston	Louis Daily MD	L00086	Houston	13	06/11/07
New Braunfels	Indutronics Inc.	L03454	New Braunfels	12	08/23/07
Throughout TX	JRD Aerospace	L05689	Tyler	03	08/16/07
Wichita Falls	North Texas Isotopes	L04810	Wichita Falls	13	08/22/07

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of Title 25 Texas Administrative Code (TAC), Chapter 289 regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC, Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC, Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, 1100 West 49<sup>th</sup> Street, Austin, Texas 78756-3189. For information call (512) 834-6688.

TRD-200704120  
Lisa Hernandez  
Deputy General Counsel  
Department of State Health Services  
Filed: September 7, 2007



#### Notice of Issuance of a Default Order and Agreed Orders

Notice is hereby given that the Department of State Health Services issued Orders to the following registrants:

##### Default Order:

Lone Star HMA LP, dba Mesquite Community Hospital (Registration #M00380) of Mesquite. A total penalty amount of \$6,500 shall be paid by the registrant for violations of 25 Texas Administrative Code, Chapter 289.

##### Agreed Orders:

General Inspection Services, Inc. (License #L02319) of Hempstead. The Department shall probate a total penalty of \$2,000 until the next inspection results are determined. The registrant shall also comply with additional settlement agreement requirements.

Chiropractic Health & Wellness Center (Registration #R27109) of Irving. A total penalty of \$1,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Woolverton Chiropractic Center (Registration #R05033) of Richardson. A total penalty of \$1,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

TechCoor USA Management, LLC (License #L05972) of Houston. A total penalty of \$9,250 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Mundy Maintenance and Services, LLC. (License #L04360) of Pampa. A total penalty of \$500 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Floyd D. Britton, DDS (Registration #R09225) of Kemah. A total penalty of \$2,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Gary N. Pointer, DDS (Registration #R08440) of Fort Worth. A total penalty of \$1,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Executive Health Exams, INTL (Registration #M00708) of Houston. A total penalty of \$29,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Basin Industrial X-Ray (License #L05002) of Corpus Christi. A total penalty of \$2,500 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

PHC Wireline, dba PSI Wireline, Inc. (License #L05911) of San Angelo. A total penalty of \$2,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Quantum Physicians, P.A. (Registration #R25527) of Houston. A total penalty of \$5,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Michael J. Jeansonne, DDS, MS (Registration #R18424) of Beaumont. A total penalty of \$500 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Phoenix Non-Destructive Testing (License #L04454) of Channelview. A total penalty of \$4,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Amazing Laser, Inc. (Registration #Z01702) of Austin. A total penalty of \$2,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Testmasters, Inc. (License #L03651) of Austin. A total penalty of \$1,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

N-Spec Quality Services, Inc. (License #L05113) of Corpus Christi. A total penalty of \$25,000 shall be paid by registrant for violations of 25 Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

Phipps Chiropractic Clinic (Registration #R15690) of Richardson. A total penalty of \$1,000 shall be paid by registrant for violations of 25



Texas Administrative Code, Chapter 289. The registrant shall also comply with additional settlement agreement requirements.

A copy of all relevant material is available, by appointment, for public inspection at the Department of State Health Services, Exchange Building, 8407 Wall Street, Austin, Texas, telephone (512) 834-6688, press "1" then press "0", Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200704177

Lisa Hernandez

General Counsel

Department of State Health Services

Filed: September 10, 2007



## Texas Department of Housing and Community Affairs

### Notice of Public Hearing - Manufactured Housing Division

Notice is hereby given of a public hearing to be held by the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") at 1:30 p.m. on Monday, October 22, 2007 at 221 E. 11th Street, Room 116, Austin, Texas 78701. The public hearing is to accept comments on new proposed rules to Title 10 Texas Administrative Code, Chapter 80 (West) ("Rules"). The proposed rules are published in the September 21, 2007, issue of the *Texas Register*.

All interested parties are invited to attend such public hearing to express their views with respect to the proposed new manufactured housing rules. Questions or requests for additional information may be directed to Sharon S. Choate by email at [sharon.choate@tdhca.state.tx.us](mailto:sharon.choate@tdhca.state.tx.us), by phone at (512) 475-2206, or in writing to the Texas Department of Housing and Community Affairs, Manufactured Housing Division, 221 E. 11th Street, Austin, Texas 78701, P.O. Box 12489, Austin, Texas 78711-2489.

Persons who intend to appear at the hearing and express their views are invited to contact Sharon S. Choate in writing in advance of the hearing. Any interested persons unable to attend the hearing may submit their comments in writing to Sharon S. Choate prior to the date scheduled for the hearing. Written comments may be sent to the Texas Department of Housing and Community Affairs, Manufactured Housing Division, P.O. Box 12489, Austin, Texas 78711-2489, faxed to (512) 475-3506, or emailed to [sharon.choate@tdhca.state.tx.us](mailto:sharon.choate@tdhca.state.tx.us).

This notice is published and the above described hearing is to be held in satisfaction of the requirements of the Texas Manufactured Housing Standards Act, Occupations Code, Subtitle C, Chapter 1201 and Title 10 Texas Administrative Code (West).

Individuals who require auxiliary aids for this meeting should contact Gina Esteves, ADA Responsible Employee, at (512) 475-3943, or Relay Texas at 1 (800) 735-2989 at least two days prior to the meeting so that appropriate arrangements can be made.

TRD-200704097

Joe A. Garcia

Interim Executive Director, Manufactured Housing Division of TDHCA

Texas Department of Housing and Community Affairs

Filed: September 6, 2007



## Texas Department of Insurance

### Company Licensing

Application for admission to the State of Texas by BRAVO HEALTH INSURANCE COMPANY, INC., a foreign life, accident and/or health company. The home office is in Wilmington, Delaware.

Application for admission to the State of Texas by ALFA SPECIALTY INSURANCE CORPORATION, a foreign fire and/or casualty company. The home office is in Montgomery, Alabama.

Application for admission to the State of Texas by GEICO CASUALTY COMPANY, a foreign fire and/or casualty company. The home office is in Chevy Chase, Maryland.

Application to change the name of AMERICAN EMPLOYERS' INSURANCE COMPANY to SPARTA INSURANCE COMPANY, a foreign fire and/or casualty company. The home office is in Boston, Massachusetts.

Application for admission to the State of Texas by CAMPMED CASUALTY & INDEMNITY COMPANY, INC. OF MARYLAND, a foreign fire and/or casualty company. The home office is in Brunswick, Maryland.

Any objections must be filed with the Texas Department of Insurance, within twenty (20) calendar days from the date of the *Texas Register* publication, addressed to the attention of Godwin Ohaechesi, 333 Guadalupe Street, M/C 305-2C, Austin, Texas 78701.

TRD-200704206

Gene C. Jarmon

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: September 12, 2007



### Third Party Administrator Applications

The following third party administrator (TPA) applications have been filed with the Texas Department of Insurance and are under consideration.

Application of COTTINGHAM & BUTLER CLAIMS SERVICES, INC., a foreign third party administrator. The home office is DUBUQUE, IOWA.

Application of CANNON COCHRAN MANAGEMENT SERVICES, INC. (using the assumed name of CCMSI), a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Application of BROADSPIRE SERVICES, INC., a foreign third party administrator. The home office is WILMINGTON, DELAWARE.

Application to change the name of GULFQUEST, LLC to GULFQUEST, L.P., a domestic third party administrator. The home office is HOUSTON, TEXAS.

Application to change the name of CLAIM MANAGEMENT SERVICES, INC. to CLAIM MANAGEMENT SERVICES, INC. (using the assumed name of TOTAL CLAIM SOLUTIONS, INC.), a foreign third party administrator. The home office is GREEN BAY, WISCONSIN.

Any objections must be filed within 20 days after this notice is published in the *Texas Register*, addressed to the attention of Matt Ray, MC 107-1A, 333 Guadalupe, Austin, Texas 78701.

TRD-200704216

Gene C. Jarmon

Chief Clerk and General Counsel

Texas Department of Insurance

Filed: September 12, 2007

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## Texas Lottery Commission

### Instant Game Number 1002 "5X Winnings"

#### 1.0 Name and Style of Game.

A. The name of Instant Game No. 1002 is "5X WINNINGS". The play style is "slots - straight line".

#### 1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1002 shall be \$2.00 per ticket.

#### 1.2 Definitions in Instant Game No. 1002.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play

Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: CHERRY SYMBOL, LEMON SYMBOL, DIAMOND SYMBOL, CROWN SYMBOL, KEY SYMBOL, BELL SYMBOL, CLOVER SYMBOL, HORSESHOE SYMBOL, COIN SYMBOL, STACK OF BILLS SYMBOL, STAR SYMBOL, RING SYMBOL, HEART SYMBOL, MELON SYMBOL, GIFT SYMBOL, CHEST SYMBOL, SEVEN SYMBOL, RAINBOW SYMBOL, WISHBONE SYMBOL, BOOT SYMBOL, HAT SYMBOL, WALLET SYMBOL, 5X SYMBOL, \$2.00, \$3.00, \$4.00, \$5.00, \$10.00, \$20.00, \$25.00, \$100, \$500 or \$20,000.

D. Play Symbol Caption - The printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1002 - 1.2D

<b>PLAY SYMBOL</b>	<b>CAPTION</b>
CHERRY SYMBOL	CHERRY
LEMON SYMBOL	LEMON
DIAMOND SYMBOL	DMND
CROWN SYMBOL	CRWN
KEY SYMBOL	KEY
BELL SYMBOL	BELL
CLOVER SYMBOL	CLVR
HORSESHOE SYMBOL	SHOE
COIN SYMBOL	COIN
STACK OF BILLS SYMBOL	BILLS
STAR SYMBOL	STAR
RING SYMBOL	RING
HEART SYMBOL	HEART
MELON SYMBOL	MELON
GIFT SYMBOL	GIFT
CHEST SYMBOL	CHEST
SEVEN SYMBOL	SEVEN
RAINBOW SYMBOL	RAINBOW
WISHBONE SYMBOL	WBONE
BOOT SYMBOL	BOOT
HAT SYMBOL	HAT
WALLET SYMBOL	WALLET
5X SYMBOL	WINX5
\$2.00	TWO\$
\$3.00	THREE\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$25.00	TWY FIV
\$100	ONE HUND
\$500	FIV HUND
\$20,000	20 THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for validation purposes and cannot be used to play the game. The possible validation codes are:

**Figure 2: GAME NO. 1002 - 1.2E**

<b>CODE</b>	<b>PRIZE</b>
<b>TWO</b>	<b>\$2.00</b>
<b>THR</b>	<b>\$3.00</b>
<b>FIV</b>	<b>\$5.00</b>
<b>TEN</b>	<b>\$10.00</b>
<b>FTN</b>	<b>\$15.00</b>
<b>TWN</b>	<b>\$20.00</b>

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$25.00, \$50.00, \$75.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$20,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (1002), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 125 within each pack. The format will be: 1002-0000001-001.

L. Pack - A pack of "5X WINNINGS" Instant Game tickets contains 125 tickets, packed in plastic shrink-wrapping and fanfolded in pages of two (2). One ticket will be folded over to expose a front and back of one ticket on each pack. Please note the books will be in an A, B, C and D configuration.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "5X WINNINGS" Instant Game No. 1002 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "5X WINNINGS" Instant Game is determined

once the latex on the ticket is scratched off to expose 32 (thirty-two) Play Symbols. If a player reveals 3 matching play symbols within a GAME, the player wins the PRIZE shown for that GAME. If a player reveals a 5X play symbol, the player wins 5 TIMES the PRIZE shown for that GAME. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 32 (thirty-two) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;
7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;
8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;
9. The ticket must not be counterfeit in whole or in part;
10. The ticket must have been issued by the Texas Lottery in an authorized manner;
11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;
12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;
13. The ticket must be complete and not miscut, and have exactly 32 (thirty-two) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;
14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 32 (thirty-two) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures;

17. Each of the 32 (thirty-two) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. There is no relation between the position of a ticket in a pack and its status (winner or non-winner).

B. Adjacent tickets within a pack will not have identical patterns. Two tickets have identical patterns when they have the same symbols in the same positions.

C. There will be a random distribution of all symbols on the ticket unless affected by other constraints, play action or prize structure.

D. Non-winning prize symbols will be unique.

E. There will be no more than three (3) identical non-winning symbols combined in all GAMES.

F. Non-winning GAMES will be unique. This means no two GAMES will have the same symbols in the same positions.

G. At least one (1) \$500 prize and one (1) \$20,000 prize symbol will be displayed on all tickets unless otherwise restricted by the prize structure.

H. The 5X (multiplier) symbol will only appear on intended winning tickets and only as dictated by the prize structure.

I. Non-winning prize symbols will not match winning prize symbols.

J. Play symbols in any non-winning GAME will not match symbols in any GAME which wins with three (3) identical symbols.

K. Winning GAMES will be distributed evenly among all GAMES.

L. On tickets that win two or more times, winning symbols will be unique.

M. There will be at least one (1) near win. A near win is a GAME where all but the last position contains identical symbols.

N. Near wins will occur among all GAMES randomly.

#### 2.3 Procedure for Claiming Prizes.

A. To claim a "5X WINNINGS" Instant Game prize of \$2.00, \$3.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$50.00, \$75.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$25.00, \$50.00, \$75.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "5X WINNINGS" Instant Game prize of \$20,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "5X WINNINGS" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General;

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "5X WINNINGS" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "5X WINNINGS" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available

in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

### 3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 7,080,000 tickets in the Instant Game No. 1002. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 1002 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$2	1,132,800	6.25
\$3	226,560	31.25
\$5	113,280	62.50
\$10	84,960	83.33
\$15	56,640	125.00
\$20	56,640	125.00
\$25	28,320	250.00
\$50	7,847	902.26
\$75	4,425	1,600.00
\$100	5,546	1,276.60
\$500	944	7,500.00
\$20,000	20	354,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.12. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1002 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1002, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200704121  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: September 7, 2007



#### Instant Game Number 1003 "Line 'Em Up"

##### 1.0 Name and Style of Game.

A. The name of Instant Game No. 1003 is "LINE 'EM UP". The play style is "slots-straight line".

##### 1.1 Price of Instant Ticket.

A. Tickets for Instant Game No. 1003 shall be \$1.00 per ticket.

##### 1.2 Definitions in Instant Game No. 1003.

A. Display Printing - That area of the instant game ticket outside of the area where the Overprint and Play Symbols appear.

B. Latex Overprint - The removable scratch-off covering over the Play Symbols on the front of the ticket.

C. Play Symbol - The printed data under the latex on the front of the instant ticket that is used to determine eligibility for a prize. Each Play Symbol is printed in Symbol font in black ink in positive except for dual-image games. The possible black play symbols are: CHERRY SYMBOL, KEY SYMBOL, LEMON SYMBOL, ORANGE SYMBOL, POT OF GOLD SYMBOL, CROWN SYMBOL, BELL SYMBOL, DIAMOND SYMBOL, DOLLAR BILL SYMBOL, GOLD BAR SYMBOL, BAG OF MONEY SYMBOL, COIN SYMBOL, HORSESHOE SYMBOL, CLOVER SYMBOL, \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100, \$500 and \$1,000.

D. Play Symbol Caption - the printed material appearing below each Play Symbol which explains the Play Symbol. One caption appears under each Play Symbol and is printed in caption font in black ink in positive. The Play Symbol Caption which corresponds with and verifies each Play Symbol is as follows:

Figure 1: GAME NO. 1003 - 1.2D

PLAY SYMBOL	CAPTION
CHERRY SYMBOL	CHERRY
KEY SYMBOL	KEY
LEMON SYMBOL	LEMON
ORANGE SYMBOL	ORG
POT OF GOLD SYMBOL	POTGLD
CROWN SYMBOL	CRWN
BELL SYMBOL	BELL
DIAMOND SYMBOL	DMND
DOLLAR BILL SYMBOL	DOLR
GOLD BAR SYMBOL	BAR
BAG OF MONEY SYMBOL	BAG
COIN SYMBOL	COIN
HORSESHOE SYMBOL	SHOE
CLOVER SYMBOL	CLVR
\$1.00	ONE\$
\$2.00	TWO\$
\$4.00	FOUR\$
\$5.00	FIVE\$
\$10.00	TEN\$
\$20.00	TWENTY
\$50.00	FIFTY
\$100	ONE HUND
\$500	FIV HUND
\$1,000	ONE THOU

E. Retailer Validation Code - Three (3) letters found under the removable scratch-off covering in the play area, which retailers use to verify and validate instant winners. These three (3) small letters are for val-

idation purposes and cannot be used to play the game. The possible validation codes are:

Figure 2: GAME NO. 1003 - 1.2E

CODE	PRIZE
ONE	\$1.00
TWO	\$2.00
FOR	\$4.00
FIV	\$5.00
TEN	\$10.00
TWN	\$20.00

Low-tier winning tickets use the required codes listed in Figure 2. Non-winning tickets and high-tier tickets use a non-required combination of the required codes listed in Figure 2 with the exception of Ø, which will only appear on low-tier winners and will always have a slash through it.

F. Serial Number - A unique 13 (thirteen) digit number appearing under the latex scratch-off covering on the front of the ticket. There is a boxed four (4) digit Security Number placed randomly within the Serial Number. The remaining nine (9) digits of the Serial Number are the Validation Number. The Serial Number is positioned beneath the bottom row of play data in the scratched-off play area. The Serial Number



is for validation purposes and cannot be used to play the game. The format will be: 0000000000000.

G. Low-Tier Prize - A prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00 or \$20.00.

H. Mid-Tier Prize - A prize of \$50.00, \$100 or \$500.

I. High-Tier Prize - A prize of \$1,000.

J. Bar Code - A 22 (twenty-two) character interleaved two (2) of five (5) bar code which will include a three (3) digit game ID, the seven (7) digit pack number, the three (3) digit ticket number and the nine (9) digit Validation Number. The bar code appears on the back of the ticket.

K. Pack-Ticket Number - A 13 (thirteen) digit number consisting of the three (3) digit game number (1003), a seven (7) digit pack number, and a three (3) digit ticket number. Ticket numbers start with 001 and end with 150 within each pack. The format will be: 1003-0000001-001.

L. Pack - A pack of "LINE 'EM UP" Instant Game tickets contains 150 tickets, packed in plastic shrink-wrapping and fanfolded in pages of five (5). Tickets 001 to 005 will be on the top page; tickets 006 to 010 on the next page; etc.; and tickets 146 to 150 will be on the last page with backs exposed. Ticket 001 will be folded over so the front of ticket 001 and 010 will be exposed.

M. Non-Winning Ticket - A ticket which is not programmed to be a winning ticket or a ticket that does not meet all of the requirements of these Game Procedures, the State Lottery Act (Texas Government Code, Chapter 466), and applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401.

N. Ticket or Instant Game Ticket, or Instant Ticket - A Texas Lottery "LINE 'EM UP" Instant Game No. 1003 ticket.

2.0 Determination of Prize Winners. The determination of prize winners is subject to the general ticket validation requirements set forth in Texas Lottery Rule 401.302, Instant Game Rules, these Game Procedures, and the requirements set out on the back of each instant ticket. A prize winner in the "LINE 'EM UP" Instant Game is determined once the latex on the ticket is scratched off to expose 16 (sixteen) play symbols. If a player reveals three (3) matching play symbols across in the same spin, the player wins the prize shown for that spin. No portion of the display printing nor any extraneous matter whatsoever shall be usable or playable as a part of the Instant Game.

#### 2.1 Instant Ticket Validation Requirements.

A. To be a valid Instant Game ticket, all of the following requirements must be met:

1. Exactly 16 (sixteen) Play Symbols must appear under the latex overprint on the front portion of the ticket;
2. Each of the Play Symbols must have a Play Symbol Caption underneath, unless specified, and each Play Symbol must agree with its Play Symbol Caption;
3. Each of the Play Symbols must be present in its entirety and be fully legible;
4. Each of the Play Symbols must be printed in black ink except for dual image games;
5. The ticket shall be intact;
6. The Serial Number, Retailer Validation Code and Pack-Ticket Number must be present in their entirety and be fully legible;

7. The Serial Number must correspond, using the Texas Lottery's codes, to the Play Symbols on the ticket;

8. The ticket must not have a hole punched through it, be mutilated, altered, unreadable, reconstituted or tampered with in any manner;

9. The ticket must not be counterfeit in whole or in part;

10. The ticket must have been issued by the Texas Lottery in an authorized manner;

11. The ticket must not have been stolen, nor appear on any list of omitted tickets or non-activated tickets on file at the Texas Lottery;

12. The Play Symbols, Serial Number, Retailer Validation Code and Pack-Ticket Number must be right side up and not reversed in any manner;

13. The ticket must be complete and not miscut, and have exactly 16 (sixteen) Play Symbols under the latex overprint on the front portion of the ticket, exactly one Serial Number, exactly one Retailer Validation Code, and exactly one Pack-Ticket Number on the ticket;

14. The Serial Number of an apparent winning ticket shall correspond with the Texas Lottery's Serial Numbers for winning tickets, and a ticket with that Serial Number shall not have been paid previously;

15. The ticket must not be blank or partially blank, misregistered, defective or printed or produced in error;

16. Each of the 16 (sixteen) Play Symbols must be exactly one of those described in Section 1.2.C of these Game Procedures.

17. Each of the 16 (sixteen) Play Symbols on the ticket must be printed in the Symbol font and must correspond precisely to the artwork on file at the Texas Lottery; the ticket Serial Numbers must be printed in the Serial font and must correspond precisely to the artwork on file at the Texas Lottery; and the Pack-Ticket Number must be printed in the Pack-Ticket Number font and must correspond precisely to the artwork on file at the Texas Lottery;

18. The display printing on the ticket must be regular in every respect and correspond precisely to the artwork on file at the Texas Lottery; and

19. The ticket must have been received by the Texas Lottery by applicable deadlines.

B. The ticket must pass all additional validation tests provided for in these Game Procedures, the Texas Lottery's Rules governing the award of prizes of the amount to be validated, and any confidential validation and security tests of the Texas Lottery.

C. Any Instant Game ticket not passing all of the validation requirements is void and ineligible for any prize and shall not be paid. However, the Executive Director may, solely at the Executive Director's discretion, refund the retail sales price of the ticket. In the event a defective ticket is purchased, the only responsibility or liability of the Texas Lottery shall be to replace the defective ticket with another unplayed ticket in that Instant Game (or a ticket of equivalent sales price from any other current Instant Lottery game) or refund the retail sales price of the ticket, solely at the Executive Director's discretion.

#### 2.2 Programmed Game Parameters.

A. There is no relation between the position of a ticket in a pack and its status (winner or non-winner).

B. Adjacent tickets within a pack will not have identical patterns. Two tickets have identical patterns when they have the same symbols in the same positions.

C. There will be a random distribution of all symbols on the ticket unless affected by other constraints, play action or prize structure.

D. Non-winning prize symbols will be unique.

E. There will be no more than two (2) identical non-winning symbols combined in all SPINS.

F. Non-winning SPINS will be unique. This means no two SPINS will have the same symbols in the same positions.

G. At least one (1) \$500 prize and one (1) \$1,000 prize symbol will be displayed on all tickets unless otherwise restricted by the prize structure.

H. Non-winning prize symbols will not match winning prize symbols.

I. Play symbols in any non-winning SPIN will not match symbols in any SPIN which wins with three (3) identical symbols.

J. Winning SPINS will be distributed evenly among all SPINS.

K. On tickets that win two or more times, winning symbols will be unique.

L. There will be at least one (1) near win. A near win is a SPIN where all but the last position contains identical symbols.

M. Near wins will occur among all SPINS randomly.

### 2.3 Procedure for Claiming Prizes.

A. To claim a "LINE 'EM UP" Instant Game prize of \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$50.00, \$100 or \$500, a claimant shall sign the back of the ticket in the space designated on the ticket and present the winning ticket to any Texas Lottery Retailer. The Texas Lottery Retailer shall verify the claim and, if valid, and upon presentation of proper identification, make payment of the amount due the claimant and physically void the ticket; provided that the Texas Lottery Retailer may, but is not, in some cases, required to pay a \$50.00, \$100 or \$500 ticket. In the event the Texas Lottery Retailer cannot verify the claim, the Texas Lottery Retailer shall provide the claimant with a claim form and instruct the claimant on how to file a claim with the Texas Lottery. If the claim is validated by the Texas Lottery, a check shall be forwarded to the claimant in the amount due. In the event the claim is not validated, the claim shall be denied and the claimant shall be notified promptly. A claimant may also claim any of the above prizes under the procedure described in Section 2.3.B and Section 2.3.C of these Game Procedures.

B. To claim a "LINE 'EM UP" Instant Game prize of \$1,000, the claimant must sign the winning ticket and present it at one of the Texas Lottery's Claim Centers. If the claim is validated by the Texas Lottery, payment will be made to the bearer of the validated winning ticket for that prize upon presentation of proper identification. When paying a prize of \$600 or more, the Texas Lottery shall file the appropriate income reporting form with the Internal Revenue Service (IRS) and shall withhold federal income tax at a rate set by the IRS if required. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

C. As an alternative method of claiming a "LINE 'EM UP" Instant Game prize, the claimant must sign the winning ticket, thoroughly complete a claim form, and mail both to: Texas Lottery Commission, Post Office Box 16600, Austin, Texas 78761-6600. The risk of sending a ticket remains with the claimant. In the event that the claim is not validated by the Texas Lottery, the claim shall be denied and the claimant shall be notified promptly.

D. Prior to payment by the Texas Lottery of any prize, the Texas Lottery shall deduct a sufficient amount from the winnings of a person who has been finally determined to be:

1. delinquent in the payment of a tax or other money collected by the Comptroller, the Texas Workforce Commission, or Texas Alcoholic Beverage Commission;

2. delinquent in making child support payments administered or collected by the Attorney General; or

3. delinquent in reimbursing the Texas Health and Human Services Commission for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31, Human Resources Code;

4. in default on a loan made under Chapter 52, Education Code; or

5. in default on a loan guaranteed under Chapter 57, Education Code.

E. If a person is indebted or owes delinquent taxes to the State, other than those specified in the preceding paragraph, the winnings of a person shall be withheld until the debt or taxes are paid.

2.4 Allowance for Delay of Payment. The Texas Lottery may delay payment of the prize pending a final determination by the Executive Director, under any of the following circumstances:

A. if a dispute occurs, or it appears likely that a dispute may occur, regarding the prize;

B. if there is any question regarding the identity of the claimant;

C. if there is any question regarding the validity of the ticket presented for payment; or

D. if the claim is subject to any deduction from the payment otherwise due, as described in Section 2.3.D of these Game Procedures. No liability for interest for any delay shall accrue to the benefit of the claimant pending payment of the claim.

2.5 Payment of Prizes to Persons Under 18. If a person under the age of 18 years is entitled to a cash prize of less than \$600 from the "LINE 'EM UP" Instant Game, the Texas Lottery shall deliver to an adult member of the minor's family or the minor's guardian a check or warrant in the amount of the prize payable to the order of the minor.

2.6 If a person under the age of 18 years is entitled to a cash prize of more than \$600 from the "LINE 'EM UP" Instant Game, the Texas Lottery shall deposit the amount of the prize in a custodial bank account, with an adult member of the minor's family or the minor's guardian serving as custodian for the minor.

2.7 Instant Ticket Claim Period. All Instant Game prizes must be claimed within 180 days following the end of the Instant Game or within the applicable time period for certain eligible military personnel as set forth in Texas Government Code Section 466.408. Any prize not claimed within that period, and in the manner specified in these Game Procedures and on the back of each ticket, shall be forfeited.

2.8 Disclaimer. The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed. An Instant Game ticket may continue to be sold even when all the top prizes have been claimed.

### 3.0 Instant Ticket Ownership.

A. Until such time as a signature is placed upon the back portion of an Instant Game ticket in the space designated, a ticket shall be owned by the physical possessor of said ticket. When a signature is placed on the back of the ticket in the space designated, the player whose signature appears in that area shall be the owner of the ticket and shall be entitled to any prize attributable thereto. Notwithstanding any name or names submitted on a claim form, the Executive Director shall make payment

to the player whose signature appears on the back of the ticket in the space designated. If more than one name appears on the back of the ticket, the Executive Director will require that one of those players whose name appears thereon be designated by such players to receive payment.

B. The Texas Lottery shall not be responsible for lost or stolen Instant Game tickets and shall not be required to pay on a lost or stolen Instant Game ticket.

4.0 Number and Value of Instant Prizes. There will be approximately 10,080,000 tickets in the Instant Game No. 1003. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 1003 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$1	1,243,200	8.11
\$2	537,600	18.75
\$4	100,800	100.00
\$5	67,200	150.00
\$10	67,200	150.00
\$20	67,200	150.00
\$50	11,550	872.73
\$100	2,100	4,800.00
\$500	78	129,230.80
\$1,000	148	68,108.11

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 4.81. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

A. The actual number of tickets in the game may be increased or decreased at the sole discretion of the Texas Lottery Commission.

5.0 End of the Instant Game. The Executive Director may, at any time, announce a closing date (end date) for the Instant Game No. 1003 without advance notice, at which point no further tickets in that game may be sold.

6.0 Governing Law. In purchasing an Instant Game ticket, the player agrees to comply with, and abide by, these Game Procedures for Instant Game No. 1003, the State Lottery Act (Texas Government Code, Chapter 466), applicable rules adopted by the Texas Lottery pursuant to the State Lottery Act and referenced in 16 TAC, Chapter 401, and all final decisions of the Executive Director.

TRD-200704122  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: September 7, 2007

◆ ◆ ◆  
Revised Instant Game Number 828 "Set For Life"

The Texas Lottery Commission filed for publication Instant Game Number 828 "Set for Life." The document was published in the March 2, 2007, issue of the Texas Register (32 TexReg 1148). The number of tickets in paragraph "4.0 Number and Value of Instant Prizes" and the number of top prizes in "Table 3" were both increased after the procedures were filed in the *Texas Register*, but before the game was printed and the tickets went on sale. Section 4.0 and Table 3 now read as follows:

4.0 Number and Value of Instant Prizes. There will be approximately 12,000,000 tickets in the Instant Game No. 828. The approximate number and value of prizes in the game are as follows:

Figure 3: GAME NO. 828 - 4.0

Prize Amount	Approximate Number of Winners*	Approximate Odds are 1 in**
\$10	1,447,200	5.56
\$20	603,000	13.33
\$50	140,700	57.14
\$100	107,200	75.00
\$200	17,420	461.54
\$500	2,345	3,428.57
\$1,000	201	40,000.00
\$2,500	134	60,000.00
\$5K/WK/LIFE	3	4,000,000.00

\*The number of prizes in a game is approximate based on the number of tickets ordered. The number of actual prizes available in a game may vary based on number of tickets manufactured, testing, distribution, sales and number of prizes claimed.

\*\*The overall odds of winning a prize are 1 in 3.47. The individual odds of winning for a particular prize level may vary based on sales, distribution, testing, and number of prizes claimed.

TRD-200704215  
Kimberly L. Kiplin  
General Counsel  
Texas Lottery Commission  
Filed: September 12, 2007

Gay Dodson, R.Ph.  
Executive Director/Secretary  
Texas State Board of Pharmacy  
Filed: September 11, 2007

## Board of Nurse Examiners

### Notice of Agency's Name Change

Through the enactment of House Bill 2426, 80th Legislature, 2007, the Legislature has directed that effective September 1, 2007, the Board of Nurse Examiners' name be changed to Texas Board of Nursing. All powers and duties of the Texas Board of Nursing are the same as existed in the Board of Nurse Examiners. As of September 1, 2007, the name of Title 22, Part 11 of the Texas Administrative Code is the Texas Board of Nursing, but the rule numbers and names under the part will remain the same.

TRD-200704115  
Katherine Thomas  
Executive Director  
Board of Nurse Examiners  
Filed: September 6, 2007

## Texas State Board of Pharmacy

### Election of Officers

The Texas State Board of Pharmacy announces that Governor Rick Perry has appointed W. Benjamin Fry, R.Ph., to serve as the President of the Texas State Board of Pharmacy effective Monday, August 6, 2007, for a term to expire at the pleasure of the Governor.

The Texas State Board of Pharmacy announces the election of the following officers to serve from September 1, 2007, to August 31, 2008: Kim A. Caldwell, R.Ph., Vice President, and Jeanne D. Waggener, R.Ph., Treasurer.

TRD-200704197

## Public Utility Commission of Texas

### Notice of Application for a Certificate to Provide Retail Electric Service

Notice is given to the public of the filing with the Public Utility Commission of Texas (commission) of an application on September 7, 2007, for retail electric provider (REP) certification, pursuant to §§39.101 - 39.109 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of True Electric, LLC for Retail Electric Provider (REP) Certification, Docket Number 34713 before the Public Utility Commission of Texas.

Applicant's requested service area by geography includes the entire State of Texas.

Persons wishing to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than September 28, 2007. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 34713.

TRD-200704182  
Adriana A. Gonzales  
Rules Coordinator  
Public Utility Commission of Texas  
Filed: September 11, 2007

## Office of Rural Community Affairs

### Request for Proposals

## Trauma Team Training Services

The Office of Rural Community Affairs (ORCA) is issuing a Request for Proposals ("RFP") for the Trauma Team Training Services program.

The purpose of this RFP is to train Critical Access Hospital health-care professionals to manage crisis health situations with limited resources; to develop a timely, organized, rational response to the care of the trauma patient through a team approach and increase the efficiency of resource utilization and improve the level of care provided to the injured patient in the rural environment.

**USE OF FUNDS:** The funds will be used to train CAH healthcare professional to manage crisis health situations with limited resources; to develop a timely, organized, rational response to the care of the trauma patient through a team approach and increase the efficiency of resource utilization and improve the level of care provided to the injured patient in the rural environment.

**AMOUNT OF AWARDS:** This program is supported by funds from the Medicare Rural Hospital Flexibility (Flex) Program, Grant No. H54RH00055 awarded by the U.S. Department of Health and Human Services, Health Resources and Services Administration's (HRSA) Office of Rural Health Policy (ORHP). ORCA may commit up to \$70,000 for this program for FY 2008.

**ELIGIBLE APPLICANTS:** Only public and non-profit organizations with demonstrable experience and history in working with Critical Access Hospitals in developing trauma teams are eligible to respond to this RFP. ORCA invites qualified Applicants to submit proposals for a cost-effective trauma team training program. The selected Applicant will work with ORCA staff as necessary to ensure achievement of program goals.

**EVALUATION AND SELECTION:** ORCA: Proposals will be evaluated using the following criteria: Applicant's Experience (Capability and Support); Description of Need; Project Description; Cost and Fee Proposal.

**DEADLINE:** Applications are available September 11, 2007. Completed applications are due by 5:00 p.m. on October 12, 2007. Late proposals will not be opened or considered under any circumstances. Announcement of the selected applicants will be made by October 19, 2007.

**CONTRACT PERIOD:** The budget period for applications funded under this RFP will be November 1, 2007 ? August 31, 2008.

**CONTACT PERSON:** To obtain the application, please contact Cindy Miller:

Office of Rural Community Affairs, P.O. Box 12877, Austin, Texas 78711, (512) 936-6702 email: [orca@orca.state.tx.us](mailto:orca@orca.state.tx.us) [www.orca.state.tx.us](http://www.orca.state.tx.us)

TRD-200704192

Charles S. Stone

Executive Director

Office of Rural Community Affairs

Filed: September 11, 2007



## Texas Department of Transportation

Notice of Intent - Loop 375 César Chávez Highway (Border Highway West Extension), El Paso County, Texas

Pursuant to 43 TAC §2.5(e)(2), the Texas Department of Transportation (department), in cooperation with the Federal Highway Administration, is issuing this notice to advise the public that an Environmental

Impact Statement (EIS) will be prepared for a proposed transportation project. The project is proposed Loop 375, the César Chávez Highway (Border Highway West Extension) in El Paso, Texas. The project is part of an alternate route to provide congestion relief for Interstate 10 (I-10), an east-west facility north of the proposed project. The project would extend approximately 13.8 miles and would provide a continuous route from I-10 east of State Highway (SH) 20 (Mesa Street) to Sunland Park Drive continuing on Loop 375 to end at United States Highway (US) 54. The existing facility is as follows:

1. Six-lane expressway from I-10 to Sunland Park Drive.
2. Four-lane facility along US 85 from New Mexico Route 273 to US 62 (Paisano Drive).
3. Four-lane boulevard from Paisano Drive to Santa Fe Street.
4. Four to six-lane boulevard transitioning to a six-lane barrier separated controlled access facility from Santa Fe Street to US 54.

The project would add capacity and upgrade the existing facility to a controlled access facility through the addition of two to four through-lanes (one to two lanes in each direction).

The EIS will evaluate potential impacts from construction and operation of the project, including, but not limited to, the following: impacts or potential displacements to residents and businesses; detours; air and noise impacts from construction equipment and operation of the project; water quality impacts from the construction area and from roadway storm water runoff; impacts to waters of the United States; impacts to historic and archeological resources; impacts to floodplains; impacts to socio-economic resources (including environmental justice and limited English proficiency populations); indirect impacts; cumulative impacts; land use; vegetation; wildlife; and aesthetic and visual resources. Unique and potential significant impacts could include aesthetic and visual resources, noise, water quality, and cultural resources.

The department will consider several alternatives intended to satisfy the identified need and purpose. The alternatives will include the no-build alternative, Transportation System Management/Transportation Demand Management, mass transit, and roadway build alternatives. The roadway build alternatives may range from a two-lane road to a six-lane road, may include limited access and non-limited access (arterial) designs, and toll and non-toll lanes. There are international crossings located within the project limits, and the department will study the need to elevate or depress portions of the proposed facility.

The project may require the following approvals by the federal government: Section 106 (National Historic Preservation Act), Sections 401 and 404 (Clean Water Act), and Section 7 (Endangered Species Act). The actual approvals required may change after the department completes field surveys and if an alignment for the build alternative is selected.

A Project Coordination Plan will be provided in accordance with 23 U.S.C. §139 to facilitate and document the lead agencies' structured interaction with the public and other agencies and to inform the public and other agencies of how the coordination will be accomplished. The Project Coordination Plan will promote early and continuous involvement from stakeholders, agencies, and the public as well as describe the proposed project, the roles of the agencies and the public, the project need and purpose, schedule, level of detail for alternatives analysis, methodologies to be used in the environmental analysis, and the proposed process for coordination and communication.

The Project Coordination Plan is designed to be part of a flexible and adaptable process. The Plan will be available for public review, inputs, and comments at public meetings, including scoping meetings and hearings held throughout the National Environmental Policy Act

(NEPA) evaluation process and, upon request, at the department's El Paso District Office.

A scoping meeting is an opportunity for participating agencies, cooperating agencies, and the public to be involved in defining the need and purpose for the proposed project, to assist in determining the range of alternatives for consideration in the draft EIS, and to comment on methodologies to evaluate alternatives. The department will publish notice that scoping meetings will be held. The department currently intends to hold two scoping meetings in October 2007. The notice will be published in newspapers of general circulation in the project area at least 30 days prior to the meetings and again approximately 10 days prior to the meetings.

The department will complete the procedures for public participation and coordination with other agencies as described in one or both NEPA and state law. In addition to any scoping meetings, the department will hold a series of meetings to solicit public comment during the environmental review process. They will be held during appropriate phases of the project development process. Public notices will be given stating the date, time, and location of the meeting or hearing and will be published in English as well as Spanish. Provision will be made for those with special communication needs, including translation if requested. The department will also send correspondence to federal, state, and lo-

cal agencies, and to organizations and individuals who have previously expressed or are known to have an interest in the project, which will describe the proposed project and solicit comments. The department invites comments and suggestions from all interested parties to ensure that the full range of issues related to the proposed project are identified and addressed. Comments or questions should be directed to the department at the address set forth below.

A proposed schedule for completion of the environmental review process is not available.

Agency Contact: Comments or questions concerning this proposed action and the EIS should be sent to Mark Longenbaugh, P.E., Director of Transportation Planning and Development, Texas Department of Transportation, 13301 Gateway Boulevard West, El Paso, Texas 79928-5410, (915) 790-4272.

TRD-200704203

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: September 12, 2007

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### How to Use the Texas Register

**Information Available:** The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

**Governor** - Appointments, executive orders, and proclamations.

**Attorney General** - summaries of requests for opinions, opinions, and open records decisions.

**Secretary of State** - opinions based on the election laws.

**Texas Ethics Commission** - summaries of requests for opinions and opinions.

**Emergency Rules** - sections adopted by state agencies on an emergency basis.

**Proposed Rules** - sections proposed for adoption.

**Withdrawn Rules** - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

**Adopted Rules** - sections adopted following public comment period.

**Texas Department of Insurance Exempt Filings** - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

**Texas Department of Banking** - opinions and exempt rules filed by the Texas Department of Banking.

**Tables and Graphics** - graphic material from the proposed, emergency and adopted sections.

**Transferred Rules** - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

**In Addition** - miscellaneous information required to be published by statute or provided as a public service.

**Review of Agency Rules** - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

**How to Cite:** Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 30 (2005) is cited as follows: 30 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "30 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 30 TexReg 3."

**How to Research:** The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html

version as well as a .pdf (portable document format) version through the Internet. For website subscription information, call the Texas Register at (800) 226-7199.

### Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (1-800-356-6548), and West Publishing Company (1-800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

**How to Cite:** Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

**How to update:** To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register* (January 21, April 15, July 8, and October 7, 2005). If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

*Part I. Texas Department of Human Services*

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).